

**CDBG DISASTER RECOVERY: STATES,  
CITIES, AND DENIALS OF FUNDING**

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

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JULY 15, 2021  
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## **CDBG DISASTER RECOVERY: STATES, CITIES, AND DENIALS OF FUNDING**

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**Thursday, July 15, 2021**

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

The subcommittee met, pursuant to notice, at 12:01 p.m., via Webex, Hon. Al Green [chairman of the subcommittee] presiding.

Members present: Representatives Green, Cleaver, Adams, Tlaib, Garcia of Texas, Williams of Georgia; Emmer, Loudermilk, Mooney, Kustoff, and Timmons.

Ex officio present: Representative Waters.

Chairman GREEN. The Oversight and Investigations Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

Also, without objection, members of the full Financial Services Committee who are not members of the subcommittee are authorized to participate in today's hearing.

As a reminder, I ask all Members to keep themselves muted when they are not being recognized by the Chair to minimize disturbances while Members are asking questions of our witnesses. The staff has been instructed not to mute Members except when a Member is not being recognized by the Chair and there is inadvertent background noise.

Members are reminded that all House rules related to order and decorum apply to this remote hearing.

Members are also reminded that they may participate in only one remote proceeding at a time. If you are participating today, please keep your camera on, and if you choose to attend a different remote proceeding, please turn your camera off.

If Members wish to be recognized during the hearing, please identify yourself by name to facilitate recognition.

The title of today's hearing is, "CDBG Disaster Recovery: States, Cities, and Denials of Funding."

I will now recognize myself for 3 minutes to give an opening statement.

In May of 2018, Ms. Lagrone sat before this subcommittee and said in her testimony about Hurricane Harvey, "To further illustrate the scope of this disaster, the Harris County Flood Control District reported that 1.5 feet of water covered 70 percent of the 1,800 square miles that comprise Harris County. The weight of

that water depressed the Earth's crust enough to temporarily drop the elevation of Houston by 2 centimeters. The amount of water was approximately 1 trillion gallons."

In May of 2021, almost 3 years exactly after that testimony, Ms. Lagrone's office, the Texas General Land Office (GLO) announced that Houston and Harris County would receive zero dollars out of \$4 trillion in mitigation funding appropriated by this body. Such was the result, GLO said, of the formula it had conceived to govern the allocation of Harvey mitigation funds. GLO said nothing could be done for these, the hardest-hit disaster victims in the most impacted areas, because the allocation formula had spoken.

Left unsaid was that the vaunted formula was rigged ab initio, from the inception, against the disaster victims and residents of Harris County and Houston. Also left unsaid by GLO was that this was exactly what was expected, because GLO had been warned in January 2020 by experts in the City of Houston and advocacy groups that reliance on GLO's proposed formula would shut out the most densely-populated and most-impacted low- or moderate-income (LMI) jurisdictions in the State.

But just days later, GLO announced that it would circumvent its own rigged formula as applied to Harris County, and instead, GLO sought an accomplice when it simply, by fiat, proposed to direct HUD to give \$750 million to Harris County, something GLO was without legal authority to do.

Then, in a fit of pique, GLO falsely and publicly stated that HUD had denied its request for direct allocation to Harris County; though should any first-year law student read the law, they could tell you that it flatly prohibits direct allocation to certain jurisdictions, and Harris County unfortunately was included in these jurisdictions.

And so, today, we are here to provide critical oversight of a rigged formula, the highjacking of a Federal mitigation appropriations process, and to do what we can to prevent the rigging of the system by a grantee of Federal resources in a manner that further victimizes the victims of disasters.

I think that the time has come for a course correction.

The Chair now recognizes the ranking member of the subcommittee, Mr. Emmer, for 5 minutes for an opening statement.

Mr. EMMER. Thank you, Mr. Chairman. I appreciate you holding this hearing today. And thanks to our witnesses for appearing before this subcommittee. I look forward to all of your testimony.

The Community Development Block Grant Disaster Relief (CDBG-DR) Program is designed to address unmet needs of our most vulnerable communities, to help lower- and moderate-income people, and to help small businesses fully recover from the most severe natural disasters. It is one of several ways that Congress and the Federal Government assist in the local recovery process.

Currently, this program lacks the proper oversight needed to succeed in this endeavor, so we frequently see instances where these funds are misused, and our government struggles to swiftly distribute billions of dollars in disaster relief to those who need it most.

Why is this program so susceptible to waste, fraud, and abuse? I hope the testimony we hear today will help us to better under-

stand that question and help to shape our continued efforts as a committee, specifically the efforts of my colleagues, Chairman Green and Congresswoman Wagner, to codify this program.

When disasters strike, it is critical that aid comes in an effective and efficient manner, which can only be done through implementing proper controls and oversight of the distribution of billions of dollars in disaster relief. I am proud that this subcommittee shares this priority.

As we will explore in this hearing, communities are currently left without a clear understanding of where to turn and how to properly access the Community Development Block Grant Disaster Recovery funds. If codified, this program will establish a clear, streamlined structure so that all parties involved in distributing relief to communities understand the processing guidelines.

For example, the supplemental appropriations for disaster relief far exceed the annual appropriation for the Department of Housing and Urban Development's Community Development Block Grant Program. We need to be smart stewards of the taxpayers' dollars and codify this program because, frankly, there are too many dollars at stake to manage the program on an ad hoc basis.

Of course, no two disasters are the same, which is why it is so important that affected communities are able to put this money to the best use, but it is crucial that this program has the proper controls in place.

This funding is supposed to help rebuild homes and infrastructure, provide assistance to affected business owners, and support our low- and moderate-income community. But time and time again, we see examples of grantees misusing disaster recovery money for purposes outside the scope of approved action plans, or we see bureaucratic gridlock in distributing funds appropriately.

The Department of Housing and Urban Development's Office of the Inspector General has spent years conducting audits and investigations of this program, revealing the potential for mismanagement and the possibility of waste, fraud, and abuse.

I look forward to the witnesses' testimony so that we can further our efforts to protect vulnerable communities in times of disaster, increase transparency into the program, and establish the proper structure and oversight so that funds can be swiftly distributed.

Thank you, Mr. Chairman. I yield back the remainder of my time.

Chairman GREEN. Thank you, Mr. Emmer.

The Chair now recognizes the Chair of the full Financial Services Committee, the gentlewoman from California, Chairwoman Waters, for 1 minute.

Chairwoman WATERS. Thank you so very much, Chairman Green.

The disaster mitigation funding that Congress has appropriated to Texas since 2018 was meant to finance infrastructure projects that would protect the most-vulnerable communities from future disasters, yet Texas awarded none of this money to Houston, which suffered the lion's share of the damage from Hurricane Harvey.

We know that hurricanes, wildfires, and other disasters are getting worse, endangering millions of Americans, their homes, and their businesses. To better prepare for future disasters, we must

target mitigation funding directly to those who need it or to protect those communities that are at highest risk.

Today, I look forward to hearing from our witnesses about what went wrong in Texas and how to better prevent misallocations of disaster relief in the future.

Thank you so very much for paying attention to this very important issue, Chairman Green. I yield back the balance of my time.

Chairman GREEN. Thank you, Madam Chairwoman.

The Chair now recognizes the Vice Chair of the subcommittee, the gentlewoman from Georgia, Ms. Williams, for 1 minute.

Ms. WILLIAMS OF GEORGIA. Thank you, Mr. Chairman.

Natural disasters are unexpected and devastating, but even if we can't predict when and where they are going to happen, there is one thing that we can prepare for: We can design the strongest possible Federal framework for disaster recovery now so that we are ready to build our communities back stronger than ever when disasters do strike. That is why this hearing is so important.

If there is one thing the global pandemic has taught all of us, it is that we have to think differently about recovery. We can't just get back to normal when disaster strikes. Our goal should always be to rebuild from disaster in a way that puts all people, especially those most marginalized, in a better position to build a good life for themselves and their families.

Today, I am looking forward to discussing how we can ensure that our disaster recovery dollars are serving all of our communities, and serving them in a way that best positions them for long-term success.

Thank you to all of our witnesses for joining us today.

And, Mr. Chairman, I yield back the balance of my time.

Chairman GREEN. The gentlewoman yields back.

Please allow me now to welcome our witnesses, and I am very pleased to introduce this panel: Ms. Sarah Saadian, vice president of public policy with the National Low Income Housing Coalition; the Honorable Lina Hidalgo, a Harris County Judge; the Honorable Carol Haddock, director of public works and engineering for the City of Houston; the Honorable Heather Lagrone, a senior deputy director for community development and revitalization at the Texas General Land Office; and Stephen Begg, Deputy Inspector General in the Office of Inspector General at the Department of Housing and Urban Development.

And I must say that I should recognize the first witness as the Honorable Sarah Saadian.

Once the witnesses finish their testimony, each member will have 5 minutes to ask questions.

Ms. Saadian, you are now recognized for 5 minutes. And please correct my pronunciation of your name if I have not done so properly.

#### **STATEMENT OF SARAH SAADIAN, VICE PRESIDENT, PUBLIC POLICY, NATIONAL LOW INCOME HOUSING COALITION**

Ms. SAADIAN. Thank you, Chairman Green, Ranking Member Emmer, and members of the subcommittee. I am really grateful for the opportunity to testify before you today.



The National Low Income Housing Coalition has worked on disaster recovery issues for more than 15 years, since Hurricane Katrina, and from this experience, we have reached a simple conclusion: America's disaster housing recovery framework is fundamentally broken and in need of major reform.

When disasters strike, the most marginalized households are often hardest hit. They have the fewest resources to sustain themselves during a disaster, and they face the longest, deepest path to recovery. And yet, our nation's recovery and mitigation programs often overlook their needs. They are consistently left behind in recovery and rebuilding efforts, and their communities are made less resilient to future disasters. In turn, this exacerbates the housing crisis, solidifies segregation and racial inequities, and deepens inequality.

Today, we are discussing the Community Development Block Grant Disaster Recovery Program, which is a vital tool that provides flexible, long-term resources needed to rebuild after a disaster and prepare for future harm. But too often, the most marginalized survivors—those with the lowest incomes, people of color, people with disabilities, and others—face enormous challenges to a complete and equitable recovery under the program.

First, it takes far too long for assistance to reach households. Congressional inaction and the lack of formal authorization means that years can pass before households receive help.

Second, recovery and mitigation efforts consistently favor higher-income White communities at the expense of low-income communities and communities of color. Decisions about how to allocate resources are often made based on inaccurate data that underestimates the needs of low-income renters.

Low-income communities and communities of color are often located in areas that are at higher risk of disasters and have less resilient infrastructure due to decades of disinvestment, and yet resources tend to go towards higher-income communities that face lower risks.

The consistent lack of fair housing and civil rights enforcement by HUD means that survivors are further marginalized, and State action plans can contribute to inequity.

And, third, disaster recovery efforts often worsen America's housing crisis. A major cause of the housing crisis is the severe shortage of housing affordable to people with the lowest incomes, and for too long, these homes have been placed in areas at the greater risk of natural disasters.

When a disaster strikes, affordable housing is often damaged and destroyed, but never rebuilt. The consequences can be devastating, putting survivors at risk of displacement and, in worse cases, homelessness.

It is critical that we work towards several key goals. Recovery and mitigation must be centered on survivors with the greatest needs. Dismantling segregation and inequity must be an explicit goal of disaster recovery. All neighborhoods should be made free of environmental hazards and be safe and resilient, and those who are most impacted must have a say in how their communities are rebuilt.

As a first step towards these goals, Congress should enact the Reforming Disaster Recovery Act. If enacted, it would permanently authorize the CDBG-DR Program, allowing funds to reach households and communities more quickly.

But it also provides important safeguards and tools. It targets resources to households with the greatest needs, it prioritizes data transparency and better oversight, it protects civil rights and fair housing standards, and it encourages mitigation and resiliency.

I thank you again for the opportunity to testify before you today, and I look forward to your questions.

[The prepared statement of Ms. Saadian can be found on page 73 of the appendix.]

Chairman GREEN. Thank you.

Ms. Haddock, you may now proceed with your opening statement.

**STATEMENT OF CAROL HADDOCK, DIRECTOR, HOUSTON  
DEPARTMENT OF PUBLIC WORKS AND ENGINEERING**

Ms. HADDOCK. Chairman Green, Ranking Member Emmer, and members of the Financial Services Committee's Oversight and Investigations Subcommittee, thank you for the opportunity to be here today.

My focus for my discussion is going to be on the Community Development Block Grant Mitigation funds, the \$4.3 billion allocated to the State of Texas after Hurricane Harvey.

My name is Carol Haddock, and I am the director of Houston Public Works, a department that is responsible for Houston's public street, drainage, water and wastewater infrastructure, as well as permitting and inspection of development for more than 2.3 million Houstonians. In this role, I am in the midst of recovery from Hurricane Harvey, and the 2015 and 2016 storms before that.

Houston has a significant flooding history, but we are committed to build forward towards a resilient Houston that will be ready to withstand the next storm, since we all know that next storm will happen. However, we still face significant challenges, and one of the biggest ones today is the fact that the General Land Office has failed Houstonians who want and need to mitigate from future storms.

Even after input and warnings from multiple communities and their leaders, the State of Texas submitted an action plan that resulted in no funding awards to the areas in Texas that received the most damage from Harvey, which include: Aransas and Nueces Counties, where Harvey made landfall; Jefferson County, which endured the highest rainfall totals; and the City of Houston and Harris County, which suffered 50 percent of the damage Statewide.

The Texas General Land Office's process for allocating granted zero dollars to all of these localities, and it was only after bipartisan political pressure that the GLO retroactively requested \$750 million for Harris County.

The complaints and criticisms of GLO's process are not new. There have been multiple points where the City of Houston has elevated our concerns, to no avail. Both Mayor Turner and Chief Recovery Officer Steve Costello offered comments in December 2019 on a draft version of the State Action Plan.

At this hearing, the City specifically requested that mitigation funding be used to: revise programs to ensure that distribution is proportional to the impacts of Hurricane Harvey and the previous storms for that area; increase the maximum points for mitigation resiliency measures to provide actual mitigation; and revise the program language to incentivize regional coordination through the joint application process.

And the next two items really cut to the heart of this matter: to remove the limit on the project applications by entity and the cap on grant awards; and to remove the percentage of persons benefiting within jurisdictions' language.

These two items essentially ensured that Harris County and Houston could not obtain funding, as projects were limited in size by funding caps, and then we were punished because these smaller projects didn't benefit our full population.

These comments were also submitted in writing on January 6, 2020; however, the requested changes were not incorporated into the GLO's State Action Plan.

More than a year later, in June 2021, the GLO announced the outcome of this flawed State Action Plan. As previously warned, the City of Houston and Harris County received no funding allocation. Every single City of Houston and Harris County elected official signed a joint letter to Commissioner Bush to reconsider, to revise the metrics, and to allocate CDBG mitigation funding based on the proportionality of damages.

In my day-to-day job as director of Houston Public Works, I see Houstonians who continue to struggle to recover from Hurricane Harvey. Next month, it will have been 4 years since these damages were inflicted—4 years. And to date, the response from the GLO is that mitigation is not worthy of funding in Houston.

Houston, on the other hand, took immediate action to ensure that people would not put themselves in harm's way. Houston updated our floodplain standards and issued substantial damage letters to more than 1,000 homeowners, requiring that they not repair where they were but that they be brought into current code compliance.

New homes are required to be built higher, above the floodplain. And we implemented a proxy for the higher rainfall totals that resulted from Atlas 14. We have increased detention requirements for new development. We are doing our part. We need help in getting the existing historic development out of harm's way.

In June of 2021, Mayor Turner and Judge Hidalgo requested that HUD Secretary Fudge work with Texas' GLO to disperse an equitable and proportional amount of the \$4.3 billion to entities within Harris County; specifically, to Harris County and the City of Houston as direct subrecipients. To support this ask, we noted that more than half, more than 154,000 of the 300,000 structures that flooded, and 36 of the 68 fatalities were in Harris County.

In contrast to the GLO system, 40 percent of the funds under the Federal Emergency Management Agency's Hazard Mitigation Grant Program went to the City of Houston and Harris County. We thank the Texas Division of Emergency Management for their great partnership in getting these funds into local hands and to getting mitigation on the ground.

To date, the City of Houston still has not been allocated CDBG funding under the Hurricane Harvey State competition, and, in fact, past funding has been used as an excuse that we don't need current funding.

I look forward to working with this committee and answering any questions that you might have on this topic.

Thank you.

[The prepared statement of Ms. Haddock can be found on page 61 of the appendix.]

Chairman GREEN. Thank you very much.

And let me compliment the witnesses on doing an outstanding job with your testimony in terms of maintaining the time, but the staff has reminded me that there is a protocol that I must adhere to. And, hence, I will advise the witnesses that you are reminded that your oral testimony will be limited to 5 minutes. You should be able to see a timer on your screen that will indicate how much time you have left, and a chime will go off at the end of your time. I would ask that you be mindful of the timer, and quickly wrap up your testimony if you hear the chime, so that we can be respectful of the witnesses' and the committee members' time.

And without objection, your written statements will be made a part of the record.

Once the witnesses finish their testimony, each Member will have 5 minutes to ask questions.

Judge Hidalgo, you are now recognized for 5 minutes.

#### **STATEMENT OF THE HONORABLE LINA HIDALGO, COUNTY JUDGE, HARRIS COUNTY**

Ms. HIDALGO. Chairman Green, Ranking Member Emmer, and members of the subcommittee, thank you for inviting me here.

On behalf of the people of Harris County, I want to express my gratitude for your calling this hearing, and for your work in making sure that these programs reach our communities, because we depend on these programs to recover from disasters.

As our county's chief executive and chief emergency manager, I have seen firsthand the heartbreaking devastation our communities are still reeling from since Hurricane Harvey struck in 2017. The national media attention may have faded away by now, but there are still thousands of families suffering in silence—businesses, homeowners, renters, neighborhoods, all yearning to benefit from long-term mitigation projects before the next flood hits. Yet, due to CDBG Disaster programs that are mired in red tape, complexity, and uncertainty, millions of our residents, particularly vulnerable residents, continue to feel abandoned and frustrated.

Harris County bore the majority of fatalities in Texas due to Hurricane Harvey. We also suffered the most damage compared to any other jurisdiction in our State. More than half, around 154,000 of the roughly 300,000 structures that were damaged or destroyed across the State during Harvey were in Harris County.

Harris County is a big county. We have roughly 5 million people. We have the geographic size of the State of Rhode Island. Not only are we the largest jurisdiction in Texas, but we, along with the City of Houston, are also the economic engine for much of the

southwestern United States, and the epicenter of our national energy infrastructure.

Despite our past losses, despite our growing risk in the face of climate change, and despite the national importance of our critical energy infrastructure, our county received zero CDBG-Mitigation funds in the latest round of funding. In response to that, I joined Mayor Sylvester Turner of the City of Houston in asking HUD Secretary Marcia Fudge for certainty in an allocation and for a review of the criteria used. I also have expressed those two goals to members of our congressional delegation.

First, the GLO must make the \$750 million direct allocation to Harris County that it has announced publicly, which we view as an initial downpayment relative to what our community needs.

Second, the City of Houston and Harris County must each receive at least \$1 billion in CDBG-MIT funds. We ask that HUD approve the portion of the GLO's action plan that pertains to the \$750 million for Harris County but reject the flawed allocations.

The Harris County Flood Control District acts as the flood control district for all cities within Harris County and folks in unincorporated areas. Approximately half of my constituents are residents of the City of Houston. I want to stress that Harris County supports the City of Houston in its efforts to obtain its own funds.

I must also note that, if approved by HUD, the projects proposed in the current action plan for the \$750 million are focused on LMI areas of the county, and around half of the funding would go to projects located within the City of Houston.

In addition to the recent debacle with the CDBG-MIT Program, the CDBG-DR Program also has been a source of trauma and frustration for residents, particularly when it comes to programs like the homeowner assistance and reimbursement programs, which are designed to help and protect vulnerable and low-income individuals.

Unlike FEMA funds, which flow quickly and with certainty in the hours after a declared disaster, CDBG-DR funds take years to reach survivors, with no certainty as to how much or when funds will arrive.

Each grantee has a different way of administering their funds, and the funds are mired in delays as rules are developed, RFPs are written, et cetera. There is no intuitive or standard way for survivors to sign up for help. Required documentation is burdensome and varies, and we need CDBG-DR funds to be treated as emergency funds.

When it comes to flood control or flood recovery relief, the people of Harris County care about results, not action plans, appropriations, or competition rules.

Thank you for your time.

[The prepared statement of Judge Hidalgo can be found on page 66 of the appendix.

Chairman GREEN. Thank you, Judge Hidalgo.

The Chair now recognizes Ms. Lagrone for 5 minutes to give an oral presentation of your testimony.

**STATEMENT OF HEATHER LAGRONE, SENIOR DEPUTY DIRECTOR FOR COMMUNITY DEVELOPMENT AND REVITALIZATION, TEXAS GENERAL LAND OFFICE (GLO)**

Ms. LAGRONE. Good afternoon, Chairman Green, Ranking Member Emmer, and members of the subcommittee. My name is Heather Lagrone. I am the senior deputy director for community development and revitalization at the Texas General Land Office. Thank you for having me here today to help clarify the record on our recent mitigation allocation and, in so doing, hopefully provide information that will be helpful in removing some of the restrictions that limit the State's options when disbursing these kinds of funds.

On February 8, 2018, Congress passed Public Law 115-123, directing the U.S. Department of Housing and Urban Development to make available no less than \$12 billion in Community Development Block Grant-Mitigation funds to specific grantees that received CDBG-DR allocations for 2015, 2016, and 2017 disasters, in the same proportion as received in CDBG-DR funds.

With no further congressional intent provided, more than 1½ years later, HUD published in the Federal Register dated Friday, August 20, 2019, and named the State of Texas as the grantee responsible for administering almost \$4.3 billion in 140 total eligible counties.

I want to emphasize that the Federal Register specifically indicated that mitigation funds were provided to mitigate disaster risk and reduce future risk in areas impacted by recent disasters, in contrast to some of the public statements. None of this money could be used for recovery from past events. HUD was very specific that the CDBG-MIT funds are to be used for distinctly different purposes than the CDBG-DR funds.

The State of Texas Action Plan outlines the use of funds, programs, eligible applicants, and eligibility criteria in accordance with HUD rules and requirements and extensive guidance. The plan included competitions for eligible entities for each of the 3 disaster years, and 8 additional programs for mitigation projects and resilient housing, totaling nearly \$4.3 billion.

The plan was sent to HUD on February 3, 2020, after an extraordinary public outreach effort, including a 50-day public comment period and 8 regional public hearings, more than doubling HUD's Federal requirements.

HUD approved the plan, including the mitigation competition's growing criteria, on March 31st. HUD and the State of Texas executed a grant agreement on January 12, 2021.

Of the \$4.3 billion allocated to the State of Texas, the GLO set aside \$2.3 billion to fund local mitigation projects through a competitive process. In May of 2020, the GLO launched the first round of the competition for nearly \$1.2 billion. Applications were submitted by cities, counties, special purpose districts, and eligible Texas counties impacted by Hurricane Harvey and severe flooding in 2015 and 2016.

The GLO received more than \$6.5 billion in requests for mitigation project funding, underscoring the urgent need for increased resiliency throughout the eligible area. Applications closed for that first round of funding on October 28th, and the GLO evaluated all 290 submitted applications in accordance with HUD-approved scor-

ing criteria and CDBG-MIT eligibility. The eligible applicants with the highest scores were awarded funds.

The GLO conducted 3 competitive application programs that awarded \$31 million to 2015 mitigations competition, \$135 million to 2016 mitigation competition, and \$975 million to the Hurricane Harvey Mitigation Competition.

To understand the shift in focus from HUD's CDBG-DR Program to this new CDBG program, it is important to note HUD's definition of mitigation—those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship.

In a letter to the GLO dated June 14th, HUD stated that, unlike CDBG-DR allocations, which are allocated based on a long-established, disaster-based formula, CDBG-MIT was made available in Public Law 115–123, confirming that the GLO could not consider previous damage in administering these funds.

While drafting the action plan, the GLO staff repeatedly reminded HUD staff that previous damage was not a consideration.

Chairman GREEN. The gentlelady's time has expired.

The Chair will allow you additional time if you have not finished.

Ms. LAGRONE. Thank you, sir.

Harris County is one of 28 counties impacted by all 3 eligible events. The County Government, the Harris County Flood Control District, and the City of Houston did not submit applications that were competitive against the higher-scoring projects submitted by other eligible entities and, as such, did not receive direct funding from the Hurricane Harvey Mitigation Competition Round 1. However, several projects within Harris County received awards, totaling \$117 million from this first round.

For the record, Texas Land Commissioner George P. Bush was, by design, recused from the scoring committee and the scoring process. The Commissioner was informed of the competition results only after the projects had been through eligibility review and scored in accordance with the federally-approved action plan.

The GLO now plans to subaward \$750 million in mitigation funding to Harris County. The GLO, in coordination with Harris County, has drafted an action plan amendment that will include a set-aside of \$750 million in CDBG-MIT funding for the county to develop a method of distribution. The remaining funds in the mitigation competition, the HMG Supplemental, Coastal Resilience, and Planning Programs, will be reprogrammed to direct at least \$500 million in additional funds to the regional mitigation. There are currently three active Federal Registers governing the CDBG mitigation funds.

Per HUD requirements, the action plan is currently being translated from English into five additional languages. When translation is completed, we are required to post for public comment for 45 days and to hold public hearings to gather additional comments. Once we have responded to those comments, the action plan will be sent to HUD, which has up to 60 days to approve or deny the amendment.

As a State operating under 20 different Federal Registers, with 7 separate disaster events and 3 Federal Registers over simply the CDBG-MIT grant, streamlining the process and permanently codi-

fyng the CDBG-DR grant program will be extremely beneficial. It will provide grantees with clear guidance, reduce the time it takes from disaster impact to program implementation, and prevent references to multiple Federal Registers.

I am happy to answer any questions you may have.

[The prepared statement of Ms. Lagrone can be found on page 69 of the appendix.]

Chairman GREEN. Thank you very much.

The Chair now recognizes Mr. Stephen Begg, who is the Deputy Inspector General in the Office of the Inspector General of the Department of Housing and Urban Development, for 5 minutes.

**STATEMENT OF STEPHEN BEGG, DEPUTY INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

Mr. BEGG. Good afternoon, Chairman Green, Ranking Member Emmer, and distinguished members of this subcommittee. Thank you for the opportunity to participate in today's hearing. It is my honor to represent the dedicated oversight professionals of the HUD Office of Inspector General, and to discuss our work related to disaster recovery.

In recent years, we have identified the administration of disaster recovery assistance as a top management challenge for HUD, as the frequency of disasters and the amount of Federal spending on them through HUD's programs has increased exponentially.

We appreciate the Department's commitment to working with our office to continuously improve these disaster programs. But several themes from our work remain challenges for HUD: the lack of permanent program requirements; grantees' building capacity to manage large grants early on, and then to spend funds timely to achieve intended outcomes; and HUD maintaining capacity to monitor grantees as the program increases in size and complexity.

Our office believes that codifying HUD's disaster program requirements is critical to reducing the amount of time it takes for grantees to access funds and to deliver assistance to the individuals and communities in need.

In 2018, we recommended codification of the requirements that do not change across disasters. Earlier this year, we found that the timing of HUD's release of Federal Register notices and signing of grant agreements for the 2017 disasters was significantly delayed due to its negotiations with the Office of Management and Budget (OMB) about potential new requirements. HUD could reduce the amount of time it takes to work through these stages with grantees by standardizing aspects of the program.

Our reviews have also found that grantees are challenged early in the process to hire adequate staff, establish internal controls, and stand up systems sufficient to manage large grants. The complexity of program requirements outlined in many Federal Register notices can exacerbate these challenges, especially for grantees with limited experience.

We found that capacity issues existed for the HUD grantees in Texas and Puerto Rico, and we noted specifically that the unprecedented amount of grant funds they were administering was a significant factor in their struggle to establish capacity.



We know that codification would not solve all of the issues that grantees face, but it could provide grantees with more certainty about core requirements while they are planning and establishing programs immediately following a disaster. HUD and its grantees could then focus more on addressing capacity issues with technical assistance and working through the unique circumstances of each recovery and mitigation effort. As grantees build systems and processes to comply with standard requirements, those programs could be executed more efficiently in future disasters.

Providing clear, reasonable expectations for grantees would also help avoid spending delays later in the grant cycle. We have identified recently that the complexity of new requirements can cause confusion, even for experienced grantees, and can lead to years-long delays in spending at the local levels.

In our report on HUD's top management challenges, we noted our concern with the increasing number of disaster grantees that HUD has designated as slow spenders. We are currently reviewing HUD's process for monitoring and assisting these grantees in increasing the timeliness of their activities.

HUD has made progress in increasing its staffing capacity and procedures to oversee grantees, but opportunities still exist to improve insight into grantee operations and data, especially at the subgrantee level. Increased access to data would also assist HUD and our office in detecting and preventing waste, fraud, and abuse.

The COVID-19 pandemic exacerbated the existing challenges in HUD's disaster programs, as HUD was unable to conduct onsite monitoring reviews for an extended period, and many grantees struggled to communicate effectively with their local partners and to advance construction projects and control costs.

Moving forward, our office will continue conducting oversight to help HUD achieve its strategic objective to support effectiveness and accountability in the long-term disaster recovery. We believe codification is an important step towards achieving that objective.

We appreciate the bipartisan efforts from the members and staff of this committee to advance legislation on codification, and we look forward to supporting your work on this topic in the future.

Thank you for the opportunity to discuss our oversight work. I look forward to answering your questions.

[The prepared statement of Deputy Inspector General Begg can be found on page 32 of the appendix.]

Chairman GREEN. Thank you, Mr. Begg.

I will now recognize the gentleman from Missouri, Mr. Cleaver, for 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. And I appreciate your having this subcommittee hearing. As you and I discussed, I am chairing the Subcommittee on Housing, Community Development, and Insurance, which takes in, of course, the Oversight Subcommittee, and this is something that is very important to me, and it is something that we have to get right.

I don't need to remind you, Mr. Chairman, that you, Full Committee Chairwoman Waters, and I were in Mississippi and Alabama—

Mr. EMMER. Point of order, Mr. Chairman.

We can't see Mr. Cleaver. He needs to put his camera on.

Mr. CLEAVER. Oh, wow. I apologize. And I want to be seen, because I have on a new tie. So, thank you.

Ms. ADAMS. Well, you are looking good.

Mr. CLEAVER. Pardon me, Mr. Chairman. I apologize.

So here is the question I want to raise to you, Mr. Emmer. We are going to have more of these events happening, and I know there are probably people who believe climate change is some kind of joke that was invented on late-night TV, but here in Kansas City, Missouri, we are having the kind of summer that people usually have in Seattle. I doubt if it is 80 degrees here. Normally, we are hovering at 100.

And so we are going to have—this is going to happen over and over again. And that makes CDBG-DR extremely important, I think. And when you consider the fact that the areas where we are going to have a lot of flooding and—we found that the moderate- and high-poverty Census tracts are correlated with flood-prone Census tracts. And so, the top five States with the highest share of the homeless population are also among the top six States that are the most disaster-prone in the country.

And so, if you put aside the sheer need we have for increasing the number of housing units, can you explain why Congress should also be committed to ensuring that those units are resilient, sustainable, and equitable?

In other words, increasing the number of housing units is something we are working on, but do you see the need also for us to make sure that the units that we are helping to build or redevelop are resilient and sustainably built and sited equitably?

When I say sustainably built, I am talking about the housing that was built in Ward 9 down in New Orleans after Katrina, which Mr. Green and I have both seen.

Do you think that we need to start trying to make sure that poor people living in those areas—as we are building affordable housing, should not we start thinking about building them with a higher level of sustainability?

Mr. EMMER. And, Mr. Chairman, Mr. Cleaver's camera went off again.

Chairman GREEN. Mr. Cleaver?

Mr. CLEAVER. Yes.

Chairman GREEN. We have lost sight of you again, and we would like to see that lovely tie that you have on.

Mr. CLEAVER. I'm sorry. I was trying to reach Mr. Emmer.

I was talking to him about sustainably-built housing for poor people in areas that are likely going to be hit with repeated events like Katrina, and I talked about the housing we saw in New Orleans.

My time probably is running out. Mr. Emmer?

Mr. EMMER. You are putting that to me, Mr. Cleaver?

Mr. CLEAVER. No, no, no. I was looking at your face. I actually wanted the question to go to Ms. Saadian. I am messing up your name too, like I will probably mess up others, so forgive me. And would you please respond?

Ms. SAADIAN. Sure. I would be happy to. It is really important that we are building both resiliently and in areas that are left with disasters—

Chairman GREEN. Ma'am, we will ask that you kindly submit the remainder of your answer in writing, for the record, if you would, please?

Mr. CLEAVER. Thank you. Thank you, Mr. Chairman.

Chairman GREEN. Thank you. And we will try to give you time later on to answer the question.

The Chair now recognizes Mr. Emmer for 5 minutes.

Mr. EMMER. Thank you, Mr. Chairman.

Ms. Lagrone, so the record is clear, how much Federal funding for housing repair and mitigation has Houston actually received to date? And of that amount, how much has actually been spent?

Ms. LAGRONE. Yes, sir. The City of Houston and Harris County both received about \$1.1 billion each for disaster recovery unmet needs. The City of Houston has spent about \$88 million of that, and the County has spent about \$29 million of that \$1 billion.

Mr. EMMER. So, how many homes has the City of Houston helped to rebuild in the past 4 years?

Ms. LAGRONE. The City of Houston has built just over 250 homes as of today.

Mr. EMMER. Out of how many that were damaged?

Ms. LAGRONE. That number is kind of a sliding scale. I think earlier testimony said 300,000 houses were flooded in Houston.

Mr. EMMER. Thank you. Is it true that the Department of Housing and Urban Development had to take over Houston's housing programs? And, if so, what was the reason?

Ms. LAGRONE. HUD did not take over the programs, but the GLO did have to take over the housing programs for the City of Houston and Harris County.

Mr. EMMER. All right.

Ms. LAGRONE. In both instances, the State is the grantee to HUD, and Harris County and the City are subrecipients to the State of Texas.

And those programs were not progressing as quickly as we wanted to see them progress, and our programs were doing really well in the other 48 counties. So we stepped in to utilize our resources within the City limits of Houston and in Harris County.

Mr. EMMER. Yes. And the City limits of Houston, you are talking about 29 billion of the billion that had been spent in—is roughly 200 homes, and that is why they stepped in?

Ms. LAGRONE. Yes, sir.

Mr. EMMER. You mentioned that the City opted for a lawsuit to obtain a temporary restraining order instead of working with the General Land Office. I would like to drill down on the state of affairs at that time.

You mentioned that Houston received nearly \$1.3 billion in housing funds. I think you said \$1.2 billion just a second ago. Can you tell us how many people had the City of Houston reached with that pot of money as of when the City filed for the temporary restraining order?

Ms. LAGRONE. Sure. The City had completed less than 100 houses at that point in time.

Mr. EMMER. And how much money did Houston budget for the purpose of suing the GLO?

Ms. LAGRONE. The number that I saw in the press was \$700,000.

Mr. EMMER. And what was the effect of the restraining order? Did it shut down the General Land Office's work of rebuilding and repairing homes in Houston?

Ms. LAGRONE. It definitely slowed us down in the initiation of our bringing those resources to the table within the City limits, yes.

Mr. EMMER. When the temporary restraining order went into effect, how many homes had GLO rebuilt and how many reimbursements had been issued by that time?

Ms. LAGRONE. We had just hit 1,000 houses at the Land Office, and we had spent about \$85 million on reimbursements to homeowners who had come out of pocket and paid for their own repairs.

Mr. EMMER. Is that about 2,700 reimbursements?

Ms. LAGRONE. Oh, yes, sir, 2,700.

Mr. EMMER. In light of those numbers, the 1,000 homes and the 2,700 reimbursements completed by the GLO versus the 80 by the City of Houston, I think we have every right to ask why giving no-strings-attached money to Houston is the answer here?

Ms. Lagrone, what does your office hear from people with housing repair needs who are waiting for help in Houston?

Ms. LAGRONE. Since we have taken on the Houston program, we have had many homeowners who have told us that they had submitted information to the City that the City did not transfer to us, and so we are having to re-create documents for those homeowners or with those homeowners. And in a lot of cases, those homeowners have simply just given up and moved on to other resources and/or settled into the situation they are living in.

Mr. EMMER. They would agree that we should be questioning no-strings-attached money?

Ms. LAGRONE. Yes, sir.

Mr. EMMER. Thank you.

Mr. Begg, in June of this year, the Department of Housing and Urban Development's Office of the Inspector General released an article entitled, "Harris County Community Services Department, Houston, Texas, was inefficient and ineffective in operating its Hurricane Harvey program", and found that in the 3 years after Hurricane Harvey, Harris County had assisted only 112 of 4,513 land program participants and had spent less than 1 percent of its disaster funds.

What is the process to get money into the hands of disaster victims, and can you explain the relationship between HUD, the grantee, and, in this case, Texas GLO from the subgrantees?

Mr. BEGG. Thank you, Congressman, for the question. The process—

Mr. EMMER. Actually, Mr. Begg, I am terribly sorry. It looks like my time has run out. If you don't mind, can you submit that to us in writing?

And, Mr. Chairman, my time has expired.

Mr. BEGG. Absolutely.

Chairman GREEN. Thank you, Mr. Ranking Member. Your time has expired.

The Chair now recognizes Ms. Adams of North Carolina for 5 minutes.

Ms. ADAMS. Thank you, Chairman Green, Ranking Member Emmer, and Chairwoman Waters, for holding the hearing today.

And to our witnesses, thank you as well for your testimony.

After Hurricane Matthew devastated eastern North Carolina in 2016, CDBG's disaster relief account provided over \$200 million, which has helped tens of thousands of North Carolinians here in my State to get their lives back on track.

Now, I know I was proud to vote for that critical funding in H.R. 5235 along with you, Chair Green, but I think it is important to point out that in my home State, these critical CDBG-DR dollars were put to use to help solve the affordable housing crisis that was exacerbated by national disasters like Hurricane Matthew.

And according to the North Carolina Office of Resiliency, 76 percent of CDBG-DR funds allocated to my State were used to repair homes. And that statistic shows us just why it is necessary that we make sure that these funds are being used as Congress intends and not held hostage.

So, Ms. Saadian, what are the disadvantages to States, localities, and victims of disaster of Congress' failure to codify the rules for CDBG-DR, and what do you recommend with respect to codification?

Ms. SAADIAN. The lack of authorization means that communities have less advance knowledge of what they will be held to or how program dollars can be used, which means that they can't prepare in advance of disasters. It also means that money will reach them and households in need much more slowly. It is really important that Congress pass the Reforming Disaster Recovery Act to help those dollars reach communities more quickly.

But there are other really important tools and safeguards that are in the bill that will also help communities and survivors. The bill requires that dollars are targeted to those who are most in need and that we are equitably allocating resources between homeowners, renters, and people experiencing homelessness, and that we are rebuilding to a higher resiliency level.

There are additional things that aren't in the bill that I think would also go a long way towards helping communities. One I think that is really important is that we are using these housing dollars in a more transformational way by building housing that is more deeply affordable to those who have the greatest needs.

So, for example, the underlying cause of the housing crisis is the shortage of housing for people who are extremely low income. And if we focus our resources on building those units and increasing the supply, we can both recover more quickly and more equitably, but also help tackle the housing crisis at the same time.

Ms. ADAMS. Okay. Thank you. How can the program be improved to better include the voices and on-the-ground knowledge of communities impacted by disasters?

Ms. SAADIAN. That is a great question. What we see over and over again is that State and local government officials are under enormous pressure to get dollars out as quickly as possible, and so that means that they often make the public input process very short and ineffective.

What needs to happen is that communities are engaging with those who are most impacted before disaster hits and throughout

the process, so there can be mid-course corrections and improvements to programs if they are not working and if they are not reaching households.

We also need to see this when it comes to decisions about how to rebuild and whether to mitigate or whether households need to reallocate. And because there is not formal authorization of the program, we see wildly different outcomes in different communities.

For example, in New Jersey, after Superstorm Sandy, households weren't able to receive recovery dollars if they wanted to relocate to safer areas. But in Puerto Rico, households were told that they have to relocate and couldn't use dollars to mitigate or to build more resiliently.

It is really important that those decisions are made equitably and that the people in those communities are driving the decisions about whether and how to rebuild.

Ms. ADAMS. Thank you. Some of your comments indicated that we need to be a little more proactive. But thank you very much.

Mr. Chairman, I am going to yield back.

Chairman GREEN. The gentlelady yields back.

Mr. Loudermilk of Georgia is now recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman. I appreciate everyone on the panel today and this hearing.

First, I would like to emphasize the need for a permanent statutory structure for the CDBG-DR Program. The lack of a permanent law governing the program means that any time Congress activates the program following a disaster, the structure of the program must be established on an ad hoc basis, and HUD must engage in a rulemaking process every time new funds are appropriated. Of course, this leads to major inefficiencies and delays with distributing funds.

For my first question, Mr. Begg, do you agree with this assessment, and can you explain the problems that are caused by the lack of structure for this program?

Mr. BEGG. Thank you for the question, Congressman. I do agree with your assessment and our office has, historically. The problems that we generally see, I touched on in my opening statement, but first and foremost is timeliness. There are stages of the process that cannot be completed while HUD is in the process of making requirements through Federal Register notices. There are aspects of grantee and subgrantee planning that cannot take place with certainty while that happens. And, ultimately, these initial lags in planning and development of programs cause future downstream delays that could be taken care of in large part by standardizing the requirements that don't change across disasters and grants.

Mr. LOUDERMILK. Okay. I appreciate that. And something else I appreciate is that Mr. Green and Mrs. Wagner have been working, on a bipartisan basis, over the past several years toward providing a permanent statutory framework for the program. And I hope that we will be able to get this bill signed into law in this Congress.

Mr. Begg, I know you are aware of many examples of wasted CDBG-DR funds, the disaster relief funds, that were supposed to go to housing improvements but have gone to museums, flood walls, ports, State slush funds, and other area that are not in-

tended for the purpose of the funds. So besides establishing a permanent statutory structure for the program, what should Congress and HUD be doing to eliminate waste or misappropriation in this program and ensure that funds are used for their intended purpose?

Mr. BEGG. Thank you again for that question. One area that we see as a potential to eliminate waste, fraud, and abuse is increased access to grantee data and standardization of the data and the reporting the grantees and subgrantees are required to provide to HUD. That would assist us and the Department in proactively analyzing and assessing risk early on so that we can prevent it rather than chase it.

Mr. LOUDERMILK. So something besides just misuse of funds, we need to eliminate the waste in general, but it also needs to be balanced with the need to distribute the funds promptly. What other changes can be made to make sure that the funds don't take 3 and 4 years to distribute?

Mr. BEGG. Something that you just mentioned, Chairman Green's proposed draft of legislation includes deadlines and timelines that are built in to the statute that would require out of the gate certain deadlines be met in each phase. Creating expectations along those lines would be consistent with promoting more swift distribution of the funds.

Mr. LOUDERMILK. Thank you, Mr. Begg.

Mr. Chairman, I appreciate the time. And even though this is unusual for me, I will yield back the balance of my time.

Chairman GREEN. Thank you. The Chair will remember this in the future.

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

Ms. TLAIB. Thank you so much, Chairman Green, for convening this important hearing.

As many of you know, we just had some record rainfall in Michigan, where thousands of our families were underwater, their homes, some of our city halls, and even some of our hospitals. And the President just approved our emergency request for assistance. So this is [inaudible] Timely.

One of the most immediate and devastating impacts of disasters is on housing affordability for our low-income neighbors in markets across the country already squeezed by the lack of housing supply. And disasters often cause dramatic spikes in rental prices leading, of course, to displacement, evictions, and homelessness.

Sarah, I was really struck by the portion of your testimony where you outline the effects of disasters on the housing stock, based on ZIP Codes. And the Houston area, for instance, saw rent increases of 15 percent after Hurricane Harvey. Large portions of [inaudible] Housing stock were wiped out by one of the wildfires that happened in 2018. And so, one of the things I was hoping is that you can describe or talk about how long did the rental markets in these communities take to really truly recovery to pre-disaster levels, if ever? And were low-income residents permanently displaced as a result of the delayed and inefficient CDBG-DR distribution?

Ms. SAADIAN. That is a great question, and there are a lot of elements to that. But what we have seen is that, for too long, afford-

able housing has been cited in areas that are at a higher risk for disaster. The National Low Income Housing Coalition has just put out a report taking stock, which found that a third of federally-assisted households are at higher risk of natural disasters than those in the private market, and they are also surrounded by inadequate infrastructure, which exacerbates disasters when they happen so that rental units are lost and oftentimes never rebuilt. And so, the housing crisis that existed before a storm is made worse for those households.

It is really important that we rebuild those units. One of the pieces of the bill would require a one-for-one replacement of federally-assisted housing that is damaged or destroyed from a storm. But there are other things that we can be doing to make sure that we are rebuilding in a way that doesn't worsen the housing crisis.

One proposal that is not included in the bill that we would love to see is forward funding of CDBG-DR dollars, so that we don't have to wait years for Congress to pass those resources in a disaster supplemental. You may have seen that it took 8 months after Hurricane Michael for Congress to pass these resources. It has already been a year since the 2020 disasters and Congress hasn't provided those funds either. If we were able to forward-fund those resources, we could more immediately rebuild after a disaster to make sure that housing units aren't made worse by the housing crisis and by the disaster.

Ms. TLAI. No. Thank you very much, because I was going to talk to you about urgency. Because what I saw happen a few weeks ago in my community, I could tell they needed—I mean, this is their home. This is where they live. This is where all of their belongings are. So, I am glad you answered my second question [inaudible] Some of the particular things that we could be doing to truly make sure that we rehab and replace these homes.

You all know that due to climate change, disasters are intensifying and really leaving more damage in their wake than ever before. And I am curious to hear your ideas on how we [inaudible] Similar to I know what Sarah had talked about. For example, in my community, we are seeing that flood maps are increasingly inaccurate and out of date, and certainly don't take into account climate risk right now. In fact, we just got a rainfall that I described that was worse than an 1,000-year rainfall. Our water system didn't even have any projection for an event like this. And this isn't just in my district. This is happening [inaudible] Have scorched the West side of our country and so much more.

And when 100-year floods and wildfires have become annual occurrences, I think we need to be adapting to how we invest in our recovery fund. So to all of the witnesses, are there ways we can reform CDBG-DR programs to promote resiliency in affected communities and avoid costly disasters in the future, particularly in areas that may be more susceptible to disasters today than they were 10 to 20 years ago?

Sarah, I know you answered. If there are any other witnesses, how about Heather, can you talk about this, and Lina and Carol?

Ms. LAGRONE. Thank you so much for that question. That is a really great point. Any time you delay getting the recovery dollars out to communities, your housing stock continues to deteriorate. So



what could have been a rehab for \$50,000 becomes a full reconstruction for \$200,000. Very quickly, you are spending more money per house and, ultimately, we never get enough funding in any of these allocations and are not able to complete as many houses as a result. So, timeliness is by far the most important piece of this.

Secondarily, and we have seen it here in Texas since 2005 with our Hurricane Rita funding, when you build houses back in a more resilient fashion, when they are elevated and they are built to windstorm standards, then you absolutely see dividends on that investment, because those houses withstand the next event so much better.

Chairman GREEN. The gentlelady's time has expired. Any additional witnesses will respond by giving us a written statement for the record.

And the Chair will remind Members that if you wait until the end of your time to have your question answered, you are not likely to get a complete answer. The Chair is going to be generous, but I would beg that you not wait until the end of your time.

The Chair will now move to—

Ms. TLAIB. Thank you so much, Mr. Chairman. It is so hard when I don't see the clock, but I appreciate that—

Chairman GREEN. Oh, well, I apologize for the clock not being in view. We will have to do something about that.

Ms. TLAIB. Oh, it is because I am doing something in my district, so it is hard when you are on your phone. But I sincerely appreciate your consideration.

Chairman GREEN. Thank you. The Chair has enjoyed the colloquy with the gentlelady.

Mr. Kustoff of Tennessee is now recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Mr. Chairman. And thank you to the witnesses for appearing in today's hearing.

Mr. BEGG, I would like to follow up along Mr. Loudermilk's line of questioning about the deficiencies in the supplemental appropriations and what difficulty that causes you and your staff. My question is essentially with the way the appropriations are handled supplementally, does the lack of a permanent staff contribute to problems within the program in inefficiencies?

Mr. BEGG. Thank you for the question. If I could ask a clarifying question, the lack of permanent staff, was that the question?

Mr. KUSTOFF. Yes, sir. Let me ask you, is there in fact a lack of permanent staff? And if the answer is yes, does that contribute to inefficiencies?

Mr. BEGG. Thank you for the clarification.

With respect to HUD staff, there are permanent staff within the Office of Community Planning and Development who oversee the administration of block grant assistance, and then specifically, Disaster Recovery and Special Issues is the name of the division. But we have noted in our top management challenges reporting over the years that that office needs additional staff to oversee the growing number of dollars and grantees and complexity with which the program has been infused.

At the grantee levels, we have noticed in our reviews of capacity that there are staffing issues that would hit on your question in the sense that many grantees have to wait to hire staff until they

have new grant dollars, and so there is frequently turnover. They are at risk of not being able to staff to plan until the money is in their hands.

Mr. KUSTOFF. And correct me if I am wrong, the problem that you just identified is related to the fact that the program is administered with individual supplemental appropriations?

Mr. BEGG. Yes, sir.

Mr. KUSTOFF. Okay. Again, if I could, to follow up further on Mr. Loudermilk's questioning to you, could you talk to me about HUD's relationship and authority to reject a subgrantee's CDBG-DR action plan when there is a concern about their ability to provide benefits to the area that is impacted by a disaster event?

Mr. BEGG. Sure. HUD generally provides primary grantees with significant discretion to operate their programs and will generally—what we have seen in our work is that they will generally approve action plan amendments, as long as they are consistent with Federal law, statute, and then, of course, the notice requirements that are administered through the Federal Register. That is the general framework that is available. Certainly, HUD's Office of Community Planning and Development has the—the policymakers are in the best position to describe how they would treat subgrantee plans and changes to amendments.

Mr. KUSTOFF. Thank you, Mr. Begg. And earlier in your testimony, again with Mr. Loudermilk, you talked about waste and fraud and abuse in your questioning and the answers. I will ask you generally your opinion, what reforms can be made to this program to prevent further and future waste, fraud, and abuse?

Mr. BEGG. Thank you for that question. And in addition to what I mentioned previously with respect to enhanced access to data, certainly codification of certain requirements around duplication of benefits would assist in preventing waste, fraud, and abuse. Additionally, standardization of requirements could help reduce the number of programs that grantees create from scratch, which would help reduce some of the uncertainty in developing programs that will ultimately drive outcomes for the individuals on the ground level. And we could see a reduction in waste in that regard.

Mr. KUSTOFF. Thank you, Mr. Begg. I appreciate it.

Judge Hidalgo, in your testimony, you talked about the program essentially being mired in red tape, complexity, and uncertainty. If I could—and my time is expiring—could I ask you to submit in writing examples of the problems that the red tape has caused and your suggestions on a way to correct it?

Ms. HIDALGO. Absolutely, we will get that to you. Thank you.

Mr. KUSTOFF. Thank you, Mr. Chairman. I yield back.

Chairman GREEN. Thank you. The gentleman's time has expired. And the Chair appreciates the gentleman's adherence to the protocols.

The Chair will now recognize the gentlelady from Texas, Ms. Garcia for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Mr. Chairman. And thank you for this very important hearing. It is something that is really a critical issue, not only in my district, but in the Houston region, and in fact across the country, because we are not the only ones who face a disaster and are in need of these funds. So, anything

that we might be able to do to reform and improve this program and address some of the issues, like in the bill that you are proposing, would be a big help to all Americans.

The issue is serious. We have faced unimaginable challenges in the wake of Hurricane Harvey. Despite what the General Land Office has claimed, we have not asked for any special treatment or any special favors. All we are asking for is fairness and equity.

Natural disasters of historic proportions do warrant more attention in vulnerable areas. That is the sole purpose of the disaster mitigation grant. This was put into place to prepare vulnerable coastal areas for disasters such as these. Out of 300,000 structures that flooded, over half of them were in Harris County. And according to FEMA, the Houston area experienced the largest amount of rainwater ever recorded in the continental United States from a single storm.

Despite the brutal realities of the disaster, the General Land Office has chosen to disregard the very real need for disaster mitigation that is sitting right in front of them, instead hiding behind an obscure rigged formula as its primary reason for denying the Houston area and Harris County much-needed assistance.

We have been given insubstantial explanations for why the General Land Office has allocated their funds this way. And despite HUD's willingness to work with the State, they have pushed back on amending their proposal, instead blaming HUD and bureaucracy for the situation.

Thank you for helping get to the bottom of this. Our citizens' lives depend on it.

Judge Hidalgo, back in January of 2020, did local officials like yourself or the Mayor of Houston alert GLO to the adverse disparate impacts that the proposed formula would have on urban and LMI areas with denser population levels, such as Houston and Harris County?

Ms. HIDALGO. Yes, Congresswoman. I know the Mayor and officials with the City did, at least.

Ms. GARCIA OF TEXAS. But did you [inaudible]. And what was their response?

Ms. HIDALGO. The outcome was that the formula remained what it was, and ultimately, it disadvantaged large urban areas such as ours. For example, there was one criterion where you had to divide the impact by the number of residents. Seeing as we have 5 million residents, it disadvantaged our scoring in the criteria. That is—

Ms. GARCIA OF TEXAS. It was almost as if it was purposely done to exclude large urban areas.

Ms. HIDALGO. That was my sense, our sense, that it was disadvantaging urban areas. And that is why I am asking, alongside Mayor Turner, for a review of that initial formula. That said, I also am asking for certainty in the \$750 million, because for my constituents, it is irrelevant to them when or how the funds come. We just know we need around a billion dollars in funding for flood control in Harris County and the City of Houston each. So, we really need that \$750 million.

Ms. GARCIA OF TEXAS. Okay. So, let's ask Ms. Lagrone. Who participated or who devised the formula?

Ms. LAGRONE. Thank you for that. The General Land Office is the State of Texas designee for the disaster recovery.

Ms. GARCIA OF TEXAS. We know all that. I am asking a specific question: Who devised the formula in the General Land Office?

Ms. LAGRONE. It was done here at the General Land Office—

Ms. GARCIA OF TEXAS. No, ma'am. You have been very clear that the commissioner did not score it. But did the commissioner participate in any way in devising the formula?

Ms. LAGRONE. Oh, my apologies. No. It was created by our community development and revitalization area and my team.

Ms. GARCIA OF TEXAS. So, did the commissioner participate, review it, staple it, mutilate it, score it? Did he participate in any way in the development of the formula?

Ms. LAGRONE. He did not.

Ms. GARCIA OF TEXAS. He did not.

Okay. So, it is abundantly clear that the grant program is not based on past disasters. And I reviewed the GLO's application guide; however, I still have some clarification that is needed.

You designated 50 percent of your MIT funding to the State's most impacted or distressed counties. None of these counties overlapped with HUD's designated most impacted or distressed counties. Furthermore, most of these State-designated counties are farther inland, nowhere near where some of the damage occurred, away from the most vulnerable places hit by Hurricane Harvey.

How did you determine which counties, separate from HUD's designated impacted counties, would get their own pool of money?

Chairman GREEN. The gentlelady's time has expired. The witness will respond in writing for the record.

Ms. GARCIA OF TEXAS. Thank you, Mr. Chairman. I look forward to the response.

Chairman GREEN. Thank you.

The Chair now recognizes Mr. Timmons of South Carolina for 5 minutes.

Mr. TIMMONS. Thank you, Mr. Chairman.

Ms. Lagrone, your office has dealt with a great deal of public pressure and even allegations of discrimination throughout the process of distributing Hurricane Harvey relief funds. And that dynamic really escalated after Harris County and Houston were not awarded money in the first round of funding for Hurricane Harvey relief. Is that accurate? Is that an accurate assessment?

Ms. LAGRONE. Yes, sir, that is accurate.

Mr. TIMMONS. Can you help us understand the formula used to award funds, and did HUD approve that formula?

Ms. LAGRONE. Yes, sir. We went through the Federal Register and found all of the priorities and/or requirements on the funding that HUD wrote into the regulations, for mitigation in particular. We created a 100-point score, with low- and moderate-income areas being prioritized first and foremost. Then, we looked at social vulnerabilities of the populations being served. We looked at a community disaster index that considered the likelihood of that county being hit again by a flood and/or a hurricane.

We looked at if they had done local planning. We looked at their past capacity to administer programs with us or with the Federal Government as a whole. And then, we looked to see if they have

done any mitigation related to the need that they were identifying in their application.

There was an aspect of the program that considered the cost-benefit analysis, if you will, or a percentage of the population being served or a percentage in dollars being served.

Mr. TIMMONS. Sure. Do you think future formulas should maybe take into account population density and just the public perception that it is inappropriate to not give any resources to some of the larger areas? Is that reasonable?

Ms. LAGRONE. What we did is we looked at a total population being served as an aspect of the scoring criteria. And one would think that when you have a higher population to serve, that number, that denominator, if you will, would be a bigger number. So we thought that by putting together a formula that allocated funds based on populations served, we were accounting for the larger population areas.

Mr. TIMMONS. Okay. And it is my understanding that they can expect \$750 million in the coming weeks and months. Is that correct?

Ms. LAGRONE. That is correct. We set aside \$750 million for use in Harris County.

Mr. TIMMONS. Great. Thank you.

Mr. BEGG, I want to remark first that you would likely get a 10 out of 10 from Room Raters for your office background. I am a bit jealous with my Zoom fake background. So, I just wanted to begin with that.

Mr. BEGG. Thank you.

Mr. TIMMONS. Second, I want to give you an opportunity to answer the question Ranking Member Emmer posed before he ran out of time. HUD's Office of Inspector General's audit showed that less than 1 percent of Harris County's grant funding was spent in the past 3 years. So can you tell us what the process is to get money into the hands of disaster victims? And can you explain the relationship between HUD, the grantee, and the subgrantees?

Mr. BEGG. Thank you for the question. Absolutely. As I mentioned, after Congress appropriates funding for a disaster, HUD goes through a process of determining the allocation that will go to the grantees. And grantees then in turn will work to determine the method by which they will distribute that funding to the affected areas, those most impacted and distressed. And they will work with subgrantees on occasion, when they deem it appropriate to utilize their offices to distribute the money locally.

In this instance, the Texas General Land Office is the primary grantee. Harris County and the City of Houston have been designated as subgrantees for their unmet needs funding. Our office has done work related to both of those grants and subgrantee's administration of them. We published a report related to Harris County's performance, and we are in the process of concluding our work on the City of Houston. And we will be able to share that work with this committee and the public in the near future.

Mr. TIMMONS. Thank you. I think maybe the shorter answer is that the government bureaucracy takes time. And the faster we can get the money to the people who are adversely impacted, the better.

I have a follow-up question. I am running out of time. But I was doing some research, and it seems like a lot of these projects go to places other than low- and moderate-income families who have been impacted by disasters. And I am going to send you an additional question, and I would appreciate an answer in writing. And I just appreciate you all taking the time to be here.

And, Mr. Chairman, I yield back. Thank you.

Chairman GREEN. The gentleman yields back.

The Chair now recognizes the gentlewoman from Georgia, the Vice Chair of the subcommittee, Ms. Williams, for 5 minutes.

Ms. WILLIAMS OF GEORGIA. Thank you, Mr. Chairman.

Ms. Lagrone, I want to follow up on a discussion that you had earlier. In your written testimony, on page 2, you quote the August 2019 Federal Register notice which said, "CDBG-MIT funds do not require a tieback to the specific qualified disaster that has served as the basis for the grantees' allocation of CDBG-MIT funds."

Am I correct in reading this to mean that while a tieback to a particular disaster, such as Hurricane Harvey, was not required under the rule cited, neither was the tieback prohibited by the rule?

Ms. LAGRONE. That is correct. A tieback was not prohibited; however, it was not required. And HUD told us that damage from a previous event was not something we should consider with the allocation of the methodology that we put together.

Ms. WILLIAMS OF GEORGIA. The tieback was not prohibited by the rule. Therefore, would you agree that under the HUD rule cited, GLO could have tied back the CDBG-MIT funded projects to Hurricane Harvey?

Ms. LAGRONE. No. Based on our technical assistance and our conversations with HUD, they clarified that statement for us, that we could not consider previous damage in our methodology for distribution of the \$4 billion.

Ms. WILLIAMS OF GEORGIA. So, GLO chose not to do so?

Ms. LAGRONE. Based on the guidance that we received from HUD.

Ms. WILLIAMS OF GEORGIA. So, GLO thought it was appropriate to unlink mitigation dollars from Harvey, given this discretion to deploy mitigation funds in relation to Harvey?

Ms. LAGRONE. No, ma'am. We followed HUD's guidance, that disaster unmet needs not be a part of our criteria for the distribution of the mitigation funds.

Ms. WILLIAMS OF GEORGIA. Okay. Ms. Lagrone, your written testimony continues at page 2, and based on this definition and clarifying statement, the GLO was not able to use damage assessments from previous storms when developing the competition scoring criteria. Is that an accurate statement?

Ms. LAGRONE. That is correct. We were not allowed to use disaster need that remained in the 49 eligible counties, 140 eligible counties for the distribution of these funds.

Ms. WILLIAMS OF GEORGIA. But, Ms. Lagrone, what we have reviewed, you would have to agree that it is not correct, it is false to maintain that under the rule that you cite, GLO was not able to tie back CDBG-MIT funding to Harvey when you have already

stated in your previous testimony, in your written testimony, that there was no prohibited tieback to the rule, by the rule?

Ms. LAGRONE. In a different portion of the Federal Register, we were told that the mitigation disaster funds were to reduce future losses. In another portion, we were told that the CDBG-Mitigation funds were used for a distinctly different purpose than the disaster recovery funds.

In looking at both of those examples, those seemed to clarify and support what HUD had told us about not using disaster recovery needs or damage from a previous event for our allocation methodology.

Ms. WILLIAMS OF GEORGIA. Well, Ms. Lagrone, I am confused about the statement in your testimony. And I am curious as to who put it in your testimony, because what the rule actually says is that a tieback was not required, not that a tieback was prohibited. Correct?

Ms. LAGRONE. In that particular statement, yes. That is one piece of a 34-page Federal Register document.

Ms. WILLIAMS OF GEORGIA. Ms. Lagrone, I just want to make sure that the committee is clear on what the true reason is that GLO was not able to use Harvey damage assessments in the scoring criteria, since it clearly wasn't due to the HUD rule cited in your testimony.

Ms. LAGRONE. So, the one rule that you are pointing to is not the full discussion in the Register. The other items that I pointed out to you, training and technical assistance from HUD, did tell us that we could not use damage assessments towards that.

In comments that we received from the City of Houston, specifically—I'm sorry, from Harris County, said that they received 44 percent of the damage from Hurricane Harvey and were only eligible to receive 8 percent of the funds. In our action plan that HUD approved, we responded, "The allocation of the CDBG-MIT funds is based on future risk, not previous damage per the HUD Federal Register notice."

That was our response when Harris County raised the issue and had approved that response.

Ms. WILLIAMS OF GEORGIA. Mr. Chairman, I am out of time. And I do have some questions that I would like to submit to Ms. Saadian around equitable recovery. And I will submit those for the record and request a written response.

Chairman GREEN. Without objection, they are submitted in the record.

Ms. WILLIAMS OF GEORGIA. Thank you.

Chairman GREEN. The Chair now recognizes Mr. Mooney of West Virginia for 5 minutes.

Mr. MOONEY. Thank you, Mr. Chairman.

Some of my colleagues on the other side of the aisle, as you just heard, have claimed that the Texas General Land Office (GLO) purposely wrote rules and used the word, "criteria," that made it harder, if not impossible, for the large urban areas to receive any funding.

So, Ms. Lagrone, can you answer that question directly. Did the GLO purposely write rules that make it harder for large urban areas to receive funds?

Ms. LAGRONE. No, sir, we did not.

Mr. MOONEY. Thank you.

And also, Ms. Lagrone, can you explain how your office prioritizes low- and moderate-income (LMI) families in the criteria for Community Development Block Grant Disaster Relief competitions?

Ms. LAGRONE. I thank you for that. LMI is the highest-prioritized criteria in our criteria of 100 points. It is 20 percent of the score. If you are not doing an LMI project, you didn't score enough to be awarded.

Mr. MOONEY. Okay. A follow-up to that, Ms. Lagrone, was that, "level of impact," was one of the reasons why Houston and Harris County did not score high enough to receive funding. As a follow-up to that, did they not prioritize the most-vulnerable populations?

Ms. LAGRONE. Yes, sir. Both Harris County and Houston did lose points in those criteria because the populations that they served were not as large as they could have been.

Mr. MOONEY. Okay. Thank you.

I think it is fair to say that in this case, neither Houston nor Harris County was singled out on purpose, but rather because they did not follow the competition rubric for subgrantees to receive funding. The truth is that there are plenty of ways to improve the Community Development Block Grant Disaster Relief Program. Chief among them is cutting down on waste, fraud, and abuse. Those issues should be the focus of this hearing. I just wanted to make those comments, and I thank you for testifying.

And, Mr. Chairman, I yield back the balance of my time.

Chairman GREEN. The gentleman yields back.

The Chair now desires to engage in a colloquy with Mr. Emmer or the person who is designated currently as the person to take on my questions.

Mr. Emmer, are you there, or is there someone else in your chair?

Mr. TIMMONS. William Timmons is here, from South Carolina, to sit in for Mr. Emmer.

Chairman GREEN. Thank you very much.

The Chair would ask now, do you have any additional Members who will be asking questions?

Mr. TIMMONS. No, Mr. Chairman.

Chairman GREEN. Okay. With that said, the Chair will now proceed to grant himself 5 minutes to ask questions.

Let me start with a statement to you, Ms. Lagrone. I did award you extra time. And this was done because, quite frankly, I don't blame you for what is happening. I know you have a tough job. And I want to make sure that we not only treat you fairly, but we give the appearance of treating you fairly. So, I thank you for the answers that you have given. And I thank the Members for indulging me in allowing me to accord you the extra time.

It has been intimated that a lawsuit by the City of Houston, and an inaction by the City of Houston as well, is the reason that Houston has been left behind.

However, I would like to call to the subcommittee's attention an article from the Houston Chronicle that, without objection, I will submit for the record. It is styled, "Bush says he will ask HUD to



send \$750 million in flood aid to Harris County following backlash.” The backlash, of course, being when bipartisan personalities who associated with politics, who hold public trust, opposed what was being done when GLO was awarding Houston, as well as Harris County, zero dollars. And in no universe should Harris County and Houston get zero dollars.

But in this article, it is indicated—and I will read what it says—“in a statement, Bush blamed the situation on Federal red tape requirements and complex regulations that he described as the hallmark of the Biden Administration.” Well, the truth is that the Biden Administration did not work with GLO initially when the action plan was developed, because the Biden Administration was not in place at that time.

So, Ms. Lagrone, would you just kindly answer that one question. Isn’t it true that the Biden Administration was not in place when you initially worked on your action plan?

Ms. LAGRONE. That is correct.

Chairman GREEN. Continuing, the Biden Administration did have an opportunity to work with you, but I would like to mention another article from the Houston Chronicle, dated June 1, 2021, styled, “Bush blamed Federal rules for Harris County lack of flood aid.” Our analysis shows that is false. This is from the Houston Chronicle.

And the part of the Chronicle that addresses this that I would like to call to your attention reads, “A Houston Chronicle analysis of the Department of Housing and Urban Development flood mitigation program revealed a different reality”—a different reality from Bush blaming Federal rules, is what they are talking about.

“Not only does the Federal Government grant States significant discretion to decide how to spend their funds, but the criteria Bush’s General Land Office developed discriminated against populous areas, meaning large areas like Houston, Texas.”

Now, this is the Houston Chronicle alleging discrimination. And there is additional information, empirical evidence that they contend supports the notion that there was some discrimination taking place such that areas that were less populated were going to receive dollars more so than the areas that were more populated.

Isn’t it true, ma’am, that you adhere to a formula when you distribute these dollars? You have to adhere to a formula, that is a part of your action plan. Isn’t this true?

Ms. LAGRONE. Yes, sir. The criteria is in the action plan.

Chairman GREEN. Yes, ma’am. And isn’t it true that the action plan was developed sometime prior to your actually announcing the results, wherein you indicated that Houston, as well as Harris County, would get zero dollars? Isn’t it true that the plan was developed before that announcement?

Ms. LAGRONE. That is correct. The action plan was submitted to HUD in February of 2020, and we announced awards for the mitigation beginning in March of 2021.

Chairman GREEN. So if you were adhering to your action plan, you could not deny Houston and Harris County, but more specifically Houston, funds by virtue of inaction on Houston’s part related to construction of homes or inaction by virtue of them filing a lawsuit, as opposed to doing something else.

It would be true that you were adhering to an action plan that had a formula that didn't include lawsuits, a formula that did not include Houston possibly doing something that you found offensive. Isn't it true that it was the action plan that you were working with?

Ms. LAGRONE. Yes. So the criteria—

Chairman GREEN. Excuse me, I am going to do this. I did give you a large amount of time initially. I have to close, and I have 11 seconds.

It has become somewhat intuitively obvious that we have a circumstance wherein we have to take corrective action. I am proud to work with Mrs. Wagner, and hopefully we will come up with something that our Members will be able to support.

I would like to yield back the balance of my time, as my time has expired.

Now, dear friends, let me move to bring our hearing to an end. And to do this, the staff has given me an ending that I shall have to call to your attention.

Mr. TIMMONS. Mr. Chairman?

Chairman GREEN. Yes, the Chair recognizes the gentleman for a question.

Mr. TIMMONS. Yes, Mr. Chairman. I would make a motion for unanimous consent to give you an extra 5 minutes, if you would like.

Chairman GREEN. The Chair appreciates the generosity. The Chair will simply, at this time, move to bring the hearing to an end, and will give you kudos for being so kind.

Allow me now to thank the witnesses for their testimony, and for devoting the time and resources to share their expertise with this subcommittee. Your testimony today will help to advance the important work of this subcommittee and of the U.S. Congress.

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

Friends, thank you for your participation. This hearing is now adjourned.

[Whereupon, at 1:43 p.m., the hearing was adjourned.]

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

July 15, 2021



# City of Houston's Housing and Community Development Department, Houston, TX

## Community Development Block Grant Disaster Recovery Program

Office of Audit  
Fort Worth, TX

Audit Report Number: 2021-FW-1002  
June 21, 2021

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**OFFICE OF INSPECTOR GENERAL**  
U.S. Department of Housing and Urban Development

**To:** Stacia Johnson, Director, Community Planning and Development, 6HD

**From:** *//signed//*  
Kilah S. White,  
Assistant Inspector General for Audit, GA

**Subject:** The City of Houston's Housing and Community Development Department,  
Houston, TX, Did Not Always Ensure That Its Program Followed Procurement  
Requirements

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the City of Houston's Community Development Block Grant Disaster Recovery 2015 program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me or Audit Director Danita Wade at 817-978-9309.

**Office of Audit**

451 7th Street SW, Room 8286, Washington, DC 20410  
Phone (202) 708-0430, Fax (202) 401-2505

Visit the Office of Inspector General website at <https://www.hudoig.gov>.

## Highlights

### What We Audited and Why

We audited the City of Houston's Community Development Block Grant Disaster Recovery (CDBG-DR) 2015 program. Under this program, the Consolidated Appropriations Acts of 2016 and 2017 made funds available for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization.

We audited this program based upon the U.S. Department of Housing and Urban Development, Office of Inspector General's (HUD OIG) 2019 audit plan priority to review disaster assistance programs.

Our objective was to determine whether the City ensured that it maintained adequate supporting documentation for disbursements and its program complied with procurement requirements.

Audit Report Number: 2021-FW-1002  
Date: June 21, 2021

The City of Houston's Housing and Community Development Department, Houston, TX, Did Not Always Ensure That Its Program Followed Procurement Requirements

### What We Found

The City generally ensured that it maintained adequate supporting documentation for disbursements; however, it did not always ensure that its program complied with procurement requirements. Specifically, the City did not always ensure that (1) it procured its master contractor agreements in accordance with competition and other procurement requirements for its home repair program; (2) it and its subrecipients maintained documentation to support that it performed independent cost estimates and cost analyses for its home repair and housing buyout programs; or (3) it and its subrecipients included all contract provisions in awarded contracts for its home repair, housing buyout, and infrastructure programs. This condition occurred because the City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. As a result, the City could not (1) show that it awarded 12 contracts worth more than \$10 million in a manner that allowed for unrestricted competition and provided the most advantage to it and HUD, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate procurement control systems to ensure the proper administration and expenditure of disaster funds.

### What We Recommend

We recommend that HUD require the City to (1) support that it awarded contracts without restriction and in a manner advantageous to it and HUD or put the more than \$9.7 million in contract awards to better use, (2) support or repay more than \$1.2 million in contract disbursements, and (3) develop and implement written procedures and take actions to better ensure that it and its subrecipients meet all program procurement requirements.

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## Background and Objectives

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The Consolidated Appropriations Acts, 2016,<sup>1</sup> and the Consolidated Appropriations Act, 2017,<sup>2</sup> made available \$641.2 million in funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization. On June 17, 2016, the U.S. Department of Housing and Urban Development (HUD) directly allocated more than \$66.5 million in Community Development Block Grant Disaster Recovery (CDBG-DR) 2015 program funds to the City of Houston,<sup>3</sup> and on August 7, 2017, it directly allocated additional funds totaling more than \$20.5 million.<sup>4</sup> Federal Register Notices<sup>5</sup> required the City to submit risk analysis documentation to show, in advance of signing a grant agreement, that it had proficient controls, procedures, and management capacity. This requirement included demonstrating financial controls, procurement processes, and adequate procedures to prevent a duplication of benefits as defined by Section 312 of the Stafford Act. The Federal Register Notices also required the City to submit an action plan<sup>6</sup> detailing its proposed use of the funds.

The City's Housing and Community Development Department is responsible for the oversight, administration, and implementation of the disaster programs under this allocation. The City provided its risk analysis to HUD on July 22, 2016, showing that it had adequate processes and procedures to administer its disaster programs. The action plan, dated September 19, 2016, stated that the City would use the funding for (1) home repairs, (2) housing buyout, and (3) infrastructure. HUD executed a grant agreement with the City on December 7, 2016, for more than \$66.5 million, and it amended the agreement on March 7, 2018, to include additional funds totaling more than \$20.5 million. In the agreement, HUD required the City to comply with all Federal Register requirements under the Acts.

The City implemented its home repair program. To assist with implementation, the City executed an interlocal agreement<sup>7</sup> with the Harris County Flood Control District for its housing buyout program in October 2017 and a letter of agreement with the City's Department of Public Works for its infrastructure program in August 2017, which was amended in April 2019. Both agreements, considered subrecipient agreements, required these entities to follow all program requirements and the City to review all documentation before closing and issuing payment. In addition, Federal regulations<sup>8</sup> held the City responsible for ensuring that its funds would be used in accordance with all program requirements and determining the adequacy of performance under subrecipient agreements and procurement contracts and for taking appropriate action when

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<sup>1</sup> Public Law 114-113, dated December 18, 2015

<sup>2</sup> Public Law 115-31, dated May 5, 2017

<sup>3</sup> 81 Federal Register (FR) notice 117, page 39687 (June 17, 2016)

<sup>4</sup> 82 FR 150, page 36812 (August 7, 2017)

<sup>5</sup> 81 FR 117, page 39687 (June 17, 2016), section III

<sup>6</sup> 81 FR 117, page 39687 (June 17, 2016), section I, and 82 FR 150, page 36812 (August 7, 2017), section I(A)

<sup>7</sup> The City defines an interlocal agreement as an agreement between one or more government entities for the purpose of performing governmental functions and services.

<sup>8</sup> 2 CFR (Code of Federal Regulations) 200.302(a), 303(b), 328(a), 331(d), and part 326



performance problems arose. The City had obligated and disbursed the following amounts for its and its subrecipients' program as shown in table 1.

**Table 1: CDBG-DR 2015 programs and funding as of October 13, 2020**

<b>Grantee or subrecipient</b>	<b>Program</b>	<b>Amount obligated</b>	<b>Amount spent</b>
City	Housing - home repair	\$12,000,000	\$2,451,220
Harris County	Housing buyout	10,660,000	3,005,168
Public Works	Infrastructure – public facilities and improvements	59,880,907	2,051,190
<b>Totals</b>		<b>82,540,907</b>	<b>7,507,578</b>

Our objective was to determine whether the City ensured that it maintained adequate supporting documentation for disbursements and its program complied with procurement requirements.

## Results of Audit

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### **Finding 1: The City Did Not Always Ensure That Its Program Complied With Procurement Requirements**

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The City did not always ensure that its program complied with Federal procurement requirements. Specifically, it did not always ensure that (1) it procured its master contractor agreements in accordance with competition and other procurement requirements for its home repair program; (2) it and its subrecipients maintained documentation to support that it performed independent cost estimates and cost analyses for its home repair and housing buyout programs; or (3) it and its subrecipients included all contract provisions in awarded contracts for its home repair, housing buyout, and infrastructure programs. This condition occurred because the City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. As a result, it could not (1) show that it awarded 12 contracts worth more than \$10 million<sup>9</sup> in a manner that allowed unrestricted competition and provided the most advantage to it and HUD, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate control systems to ensure the proper administration and expenditure of disaster funds.

#### **The City Did Not Always Ensure That It Procured Its Master Contractor Agreements in Accordance With Procurement Requirements for Its Home Repair Program**

The City did not always ensure that it followed procurement requirements when it procured its master contractor agreements for its home repair program. Federal regulations prohibited the City from restricting competition by making arbitrary actions in the procurement process.<sup>10</sup> Federal regulations also stated that price could be excluded from consideration only for architectural and engineering contracts.<sup>11</sup> However, a review of the master contractor agreements that the City executed under its home repair program determined that it did not always follow these requirements.

The City conducted a procurement to generate a prequalified contractors list for its home repair program, for which 24 potential contractors submitted bids. From this procurement, the City selected 12 contractors (see appendix C) for its prequalified contractors list, and it executed master contractor agreements with each contractor.

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<sup>9</sup> To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

<sup>10</sup> 2 CFR 200.319(a), 200.319(a)(7), and 200.319(c)(2). The procurement process begins with the independent cost estimate and ends when the contracts are executed.

<sup>11</sup> 2 CFR 200.320(d)(5)

A review of the file documentation for this procurement determined that the City took arbitrary actions when it made changes to the scoring mechanisms and process. The changes made to the scoring mechanisms were different from the specific weight per factor disclosed in the original bid solicitations provided to potential bidders. Specifically, it (1) increased the technical weighted factor from 35 to 40 points in section 2.2<sup>12</sup> of the request for proposal during the evaluation process and (2) did not complete the pass-fail section for bidder responsiveness for any of the 24 bidders. In addition, the City did not consider any of the price proposals, worth 15 points, submitted by the 24 bidders during the scoring process,<sup>13</sup> violating HUD requirements. Specifically, a review of the scoring sheets determined that the City did not put a score for any of the contractors in the price category. Because these were not architectural or engineering contracts, HUD prohibited the City from excluding price as a factor. When asked for the price proposals, the City stated that it no longer had the price proposal documentation<sup>14</sup> because the project manager left the City without saving the documentation on a shared drive and the hardcopies were lost in two moves since the procurement was conducted.

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The City stated that it no longer had the price proposal documentation.

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The City did not document the reasons for these arbitrary actions/changes in the scoring process and did not notify the 24 bidders of these actions. To add to this, the City initially awarded each contractor equal amounts (\$900,000 per contract). However, after the initial award, although the overall total remained \$10.8 million, the City reduced the award amount for some contracts and increased the award amount for other contracts. For example, it increased one contract to nearly \$2.3 million as of January 2019. When asked about the increased award amounts, the City stated that it would, on a contract-by-contract basis, transfer unallocated funds to fund contracts if it had insufficient funds available. Without maintaining the price proposal documentation, the City could not assure HUD that it procured its Home Repair Program in accordance with requirements. Although we did not find evidence of any contractors receiving preferential treatment, we were unable to determine if these service contracts were the most advantageous for the City and HUD.

Therefore, the City could not support that it awarded these 12 contracts worth \$10.8 million<sup>15</sup> without taking actions restrictive of competition,<sup>16</sup> as required.

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<sup>12</sup> Section 2.2 covers qualifications and requirements related to the proposal, including (1) the quality of the detailed proposal, (2) client references, and (3) experience complying with the Davis-Bacon Act and Section 3 of the HUD Development Act of 1968.

<sup>13</sup> Under 2 CFR 200.320(d)(5), price proposals may be excluded only for architectural and engineering contracts.

<sup>14</sup> 2 CFR 200.318 (i) required the City to maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

<sup>15</sup> To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors, totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

<sup>16</sup> 2 CFR 200.319(a)

**The City Did Not Always Maintain Documentation Supporting That It Assessed Cost Reasonableness In Its Subcontracting Procurement Process**

The City did not always ensure that it maintained documentation to support that it assessed cost reasonableness before receiving bid proposals and awarding contracts for home repairs. To support the cost reasonableness of contracts, Federal regulations stated that the City must perform independent cost estimates **before** receiving bids or proposals.<sup>17</sup>

The master contractor agreements (discussed in the section above) allowed the 12 prequalified contractors to bid on individual homes needing repairs under the home repair program, under a separate procurement. During our audit period, the City awarded 13 home repair contracts to 5 of the 12 prequalified contractors,<sup>18</sup> under this separate procurement. A review of the procurement documentation determined that for four contractors and seven contracts, the City generally ensured that it followed procurement requirements. However, for the remaining one contractor, who was awarded 8 contracts, the City did not have documentation to support that it performed independent cost estimates for six of those contracts, with disbursements totaling \$1,063,364, before receiving bids or proposals or awarding the contracts. When asked, the City provided a valuation report, which included the cash value of the property and the value of the property with estimated replacement costs. However, the City did not prepare the valuation report, dated until almost 5 months after it received the bid proposals and almost 1 month after the contract award date, violating HUD requirements. Without the historical valuation and cost estimate amounts, we were unable to determine the cost reasonableness of more than \$1 million disbursed to this contractor, at the time of our audit. HUD will need to make the determination of cost reasonableness.

**The City Did Not Ensure That It or Its Subrecipient Performed Independent Cost Estimates and Cost Analyses for Its Housing Buyout Program**

The City did not always ensure that it or its subrecipient, Harris County, maintained documentation to support that it performed independent cost estimates and cost analyses. For its housing buyout program, the City executed a subrecipient agreement with Harris County. This agreement required Harris County to follow all program requirements and the City to review all procurement documentation before issuing payment. In addition, Federal regulations held the City responsible for ensuring that its subrecipients used funds in accordance with all program requirements.<sup>19</sup>

To support the cost reasonableness of contracts, Federal regulations required (1) independent cost estimates before receiving bids or proposals and (2) a cost or price analysis in connection with every procurement action.<sup>20</sup> However, a review of procurement file documentation determined that neither the City nor Harris County had documentation to support that it met these requirements for one demolition services contract and three appraisal services contracts.

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<sup>17</sup> 2 CFR 200.323(a)

<sup>18</sup> Seven of the contractors from the prequalified contractors list had not received contract awards.

<sup>19</sup> 24 CFR 570.501(b) and 2 CFR 200.328(a) and 200.331(d)

<sup>20</sup> 2 CFR 200.323(a)

For the demolition contract, with disbursements totaling \$170,066, the procurement file did not include adequate documentation of an independent cost estimate and a cost analysis for a contract price increase. Specifically, while the procurement file documentation included an independent cost estimate, it was \$1.8 million less than the cost estimated in the bid documentation and, thus, insufficient to support the estimated cost. In addition, the file did not include documentation of a cost analysis for an executed contract amendment that increased this contract amount by \$1.7 million.

For the three appraisal contracts, with disbursements totaling \$27,250, the procurement file documentation did not include cost analyses for contract amendments executed with existing appraisers<sup>21</sup> to provide services under the housing buyout program and increasing the original contract amount. Therefore, the City could not support the cost reasonableness of the \$170,066 and \$27,250, respectively, paid on these four contracts.

**The City's and Its Subrecipients' Contracts Did Not Always Include All Required Contract Provisions for Its Home Repair, Housing Buyout, and Infrastructure Programs**

Although required by Federal regulations,<sup>22</sup> the City did not always ensure that contracts executed by it and its subrecipients, Harris County and Public Works, included all contract provisions, which may prevent the City from enforcing required contract provisions. Specifically, contracts executed under the City's home repair, housing buyout, and infrastructure programs did not always include all required contract provisions, such as equal employment opportunity, the Davis-Bacon and Anti-Kickback Acts, the Contract Work Hours and Safety Standards Act, the Clean Air Act, and the Anti-Lobbying Amendment, as required.<sup>23</sup> In addition, although required by the City's procurement policy, it did not attach appendix A,<sup>24</sup> which would have fulfilled the missing contract requirements.

**The City Did Not Understand Requirements and Did Not Ensure That Its Subrecipients Had Adequate Controls and Procedures**

The City did not always understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures. Specifically, the City incorrectly believed that it did not have to perform cost analyses for professional services contracts because these types of contracts could be procured noncompetitively.

In addition, federal regulations required the City to monitor the activities of its subrecipients.<sup>25</sup> The City's agreements with its subrecipients also required the City to review documentation for its program activities. While the City monitored its subrecipients, Harris County and Public

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<sup>21</sup> Of the three appraisal contracts, one was dated in 2008 with a 2-year term and 4-year contract renewals; one was dated in 2014 with a 2-year renewal that ended in 2016 but allowed automatic annual 1-year extensions after 2016; and one was dated in 2008, amended in 2014 to end in 2016, but with annual extension options.

<sup>22</sup> 2 CFR 200.326

<sup>23</sup> 2 CFR 200.326 and 2 CFR Part 200, Appendix II, Required Contract Clauses

<sup>24</sup> Procurement Policy Appendix A, effective August 29, 2013, and signed July 21, 2016, covered all of the contract provisions required by Federal regulations and would have satisfied the requirement.

<sup>25</sup> 2 CFR 200.331(d)

Works,<sup>26</sup> the monitoring reviews were insufficient, as the reviews were limited in scope; consisted of only desk reviews; and did not identify the missing independent cost estimates, cost analyses, and required contract provisions.

In addition, the City did not ensure that Harris County had adequate policies and procedures. When asked, Harris County stated that it used its May 2013 policies and procedures to execute procurements, which did not address contract provisions. While these policies required a determination of cost reasonableness, they did not specifically address the procedures for conducting independent cost estimates. Harris County also (1) did not know that this determination required a cost analysis; (2) believed that cost analyses were not required before 2018; and (3) stated that it made procurements for the entire organization and not specific to any grant award, although it should follow the requirements outlined in each individual grant award.

### **Conclusion**

Because the City did not always ensure that it and its subrecipients understood and followed program requirements and its subrecipients had adequate controls and procedures, it could not support that it sufficiently evaluated bid proposals, prepared independent cost estimates before the bidding process, performed cost analyses for contract modifications, and included required contract provisions. As a result, the City could not (1) show that it did not restrict competition and ensured the most advantageous situation for it and HUD when awarding 12 contracts worth more than \$10<sup>27</sup> million, (2) support the cost reasonableness of more than \$1.2 million in contract disbursements, and (3) provide reasonable assurance to HUD that it had adequate procurement control systems to ensure the proper administration and expenditure of disaster funds.

### **Recommendations**

We recommend that the Director of HUD's Office of Community Planning and Development require the City to

- 1A. Provide documentation, including but not limited to showing that it (1) notified and allowed a response from bidders regarding the bidding and scoring processes; and (2) awarded home repair master agreement contracts without restriction and were in line with the bid evaluation requirements, or provide a documented re-evaluation of the procurement showing that it provided the best advantage to it and HUD, thereby putting the remaining \$9,736,636 award amount to better use.
- 1B. Support \$1,063,364 or repay its CDBG-DR program from non-Federal funds for payments made to one prequalified contractor under its home repair program without independent cost estimates and cost analyses.

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<sup>26</sup> The City's monitoring division completed one monitoring review of Harris County in March 2019. The City's monitoring division completed one monitoring review of Public Works in January 2019.

<sup>27</sup> To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors, totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

- 1C. Support \$170,066 or repay its CDBG-DR program from non-Federal funds for payments made to the demolition contractor under its housing buyout program without independent cost estimates and cost analyses.
- 1D. Support \$27,250 or repay its CDBG-DR program from non-Federal funds for payments made to three appraisal contractors under its housing buyout program without cost analyses.
- 1E. Develop and implement a HUD-approved written plan and checklists that will correct and prevent the deficiencies outlined in the finding.
- 1F. Provide training to City staff to ensure that it understands and follows procurement requirements, such as performing independent cost estimates, cost analysis, scoring, including all contract provisions, ensuring that subrecipients understand and follow procurement requirements, and maintaining appropriate procurement documentation.
- 1G. Update its procurement policies and procedures to ensure compliance with disaster assistance program requirements
- 1H. Ensure that monitoring includes a review of its subrecipients' (1) policies and procedures to ensure that the policies and procedures are current and comply with HUD requirements, (2) documentation supporting cost reasonableness to ensure that the documentation is sufficient, and (3) training provided regarding procurement and other program requirements to ensure that trainings are adequate.

## Scope and Methodology

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We conducted our audit at the City's office in Houston, TX, and the HUD Office of Inspector General's (OIG) offices in Houston, TX, and New Orleans, LA, between October 2019 and October 2020. Our audit scope generally covered the City's CDBG DR 2015 program for the period December 1, 2016, through September 30, 2019. We expanded the audit period to October 13, 2020, to obtain updated disbursement data, as needed, to accomplish our audit objective.

To accomplish our objective, we

- Reviewed relevant laws, regulations, and program guidance.
- Reviewed HUD's and the City's grant agreement, dated December 7, 2016, and March 7, 2018 (amended).
- Reviewed HUD's monitoring reports, dated September 18, 2018, and September 27, 2019.
- Reviewed the City's organizational structure and written policies for the program.
- Reviewed the City's audited financial statements for 2015, 2016, 2017, and 2018.
- Reviewed the City's 2016, 2017, 2018, and 2019 action plans, and action plan amendments as applicable.
- Reviewed the City's program procurement documentation and its subrecipients' <sup>28</sup> program procurement documentation as applicable.
- Reviewed the City's expenditure files.
- Reviewed the City's monitoring reports on its subrecipients. <sup>29</sup>
- Reviewed HUD's Disaster Recovery Grant Reporting system <sup>30</sup> reports.
- Interviewed HUD officials to obtain an understanding of the program.
- Interviewed City officials to obtain an understanding of the City's program processes.
- Interviewed the City's subrecipient staff to obtain clarification regarding certain documentation.

For the procurement file review, from a universe of seven procurements for the City's home repair, infrastructure, and housing buyout programs, <sup>31</sup> with contract award amounts totaling nearly \$17.6 million and disbursements totaling more than \$3.8 million as of September 30, 2019, we selected all of the procurements for review. We reviewed the procurement files to determine whether the City ensured that it followed procurement requirements. Through the file reviews, we assessed the reliability of the City's computer-processed data regarding the

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<sup>28</sup> City of Houston Public Works Department and Harris County Flood Control District

<sup>29</sup> The City's monitoring division completed one monitoring review of Harris County in March 2019. The City's monitoring division completed one monitoring review of Public Works in January 2019.

<sup>30</sup> The Disaster Recovery Grant Reporting system is primarily used by grantees to access grant funds and report performance accomplishments for grant-funded activities.

<sup>31</sup> These procurements included one contract for the home repair program, two contracts for the infrastructure program, and four contracts for the housing buyout program.



disbursed amounts for the procured contracts and determined that the data were generally reliable.

For its home repair program, the City conducted one procurement to generate a prequalified contractors list. From this procurement, the City selected 12 contractors for its prequalified contractors list and executed an individual master contractor agreement with each one. The City awarded contracts to 5 of the 12 prequalified contractors. We performed a review of these five prequalified contractors and associated contracts totaling more than \$1.6 million. We reviewed the procurement files to determine whether the City ensured that it followed procurement requirements. Through the file reviews, we assessed the reliability of the computer-processed data regarding the disbursed amounts for the procured contracts and determined that the data were generally reliable. Although this approach did not allow us to project the results of the sample to the population, it was sufficient to meet the audit objective.

For the expenditure file review, from a universe of 58 funding drawdowns from HUD completed by the City, with disbursements totaling more than \$5.6 million between February 18, 2017, and September 25, 2019, we used the nonstatistical sampling method to select for review a sample of 18 expenditure line items associated with 14 drawdowns, with disbursements totaling more than \$3.4 million. We used the nonstatistical sampling method to ensure that we reviewed all of the City's project titles and activity<sup>32</sup> numbers. We reviewed the expenditure files to determine whether the City maintained adequate supporting documentation. Through the file reviews, we assessed the reliability of the computer-processed data for the disbursed amounts and determined that the data were generally reliable. We did not identify any significant issues during this review. Although this approach would not have allowed us to project the results of the sample to the population, it was sufficient to meet the audit objective.

To determine the amount of funds to be put to better use of more than \$9.7 million, we used the contract award amounts for the 12 prequalified contractors totaling \$10.8 million as of September 30, 2019, minus the unsupported amount as of October 2020 totaling more than \$1 million.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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<sup>32</sup> Activities included administration and the housing repair, housing buyout, and infrastructure programs.

## Internal Controls

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Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

### Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Effectiveness and efficiency of policies and procedures used to ensure that program requirements are met.
- Reliability of data provided for disbursement and procurement activities.
- Compliance with applicable Federal requirements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

### Significant Deficiencies

Based on our review, we believe that the following item is a significant deficiency:

- The City did not understand procurement requirements and ensure that its subrecipients understood and followed requirements and had adequate controls and procedures (finding).

## Appendixes

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### Appendix A

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**Schedule of Questioned Costs and Funds To Be Put to Better Use**

Recommendation number	Unsupported 1/	Funs to be put to better use 2/
1A		\$9,736,636
1B	\$1,063,364	
1C	170,066	
1D	27,250	
<b>Totals</b>	<b>1,260,680</b>	<b>9,736,636</b>

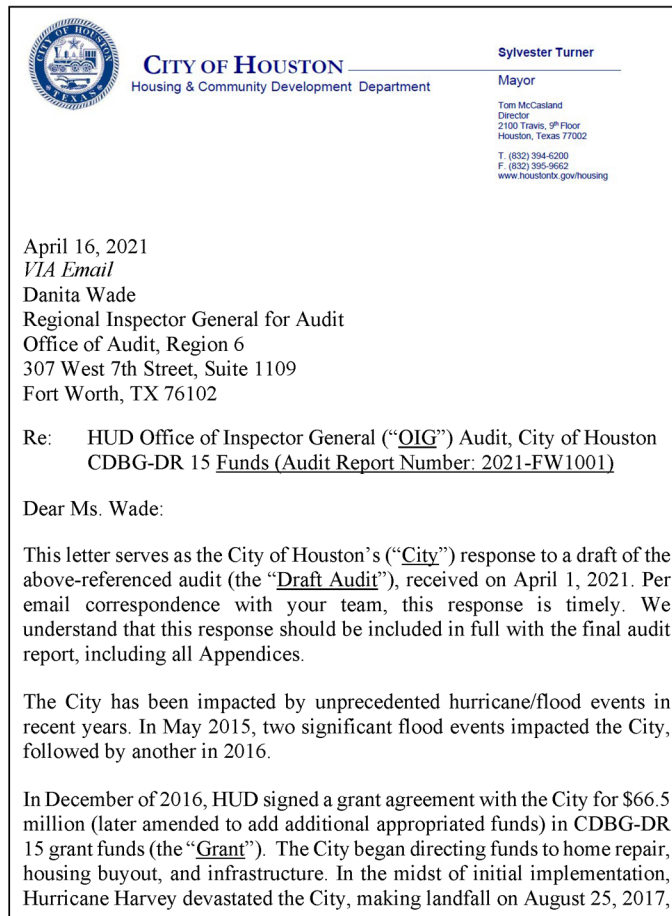
- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, the City could not document that it followed the proper procurement requirements for bid evaluation. Requiring the City to support that it awarded more than \$9.7 million for its home repair master contractor agreement contracts fairly and in line with the bid evaluation requirements or canceling and rebidding the contracts will ensure that the City makes the best use of its disaster funds.

## Appendix B

### Auditee Comments and OIG's Evaluation

#### Ref to OIG Evaluation

#### Auditee Comments



Comment 1

flooding homes and roads with over 50 inches of rain in 4 days, and causing significant destruction, injury, and even death.

The City has strived to comply with the federal requirements applicable to the Grant, and in large part has done so. We very much appreciate the OIG's finding that "the City generally ensured that it maintained adequate supporting documentation for disbursement." Unfortunately, the OIG identified a finding with respect to compliance with other procurement requirements. Below is the City's response to the sole finding and recommendations.

Comment 1

**1. The City's CDBG-DR 15 programs are completing much-needed flood recovery efforts for Houstonians.**

The single family home repair program has received 182 applications for assistance. Although a number of these applications were incomplete or ineligible, 22 construction projects have been completed with 5 under construction.

The City's housing buyout program initially planned to fund approximately 47 voluntary housing buyouts in targeted neighborhoods adversely impacted by the 2015 flood events. To date, 69 homeowners commenced participation in the program, 54 offers have been made, and 32 buyout offers accepted. The program is well on its way to successful completion, with all \$10.7 million obligated and almost half expended.

The infrastructure program seeks to fund projects that will mitigate flooding and reduce localized drainage problems in low and moderate-income areas throughout Houston. Three projects were selected and are underway in various stages.

Comment 1

**2. The City's procurement policies, processes and monitoring today have corrected all of the issues cited in the Draft Report.**

As a preliminary matter we must emphasize the significant enhancements to the City's procurement policies, procedures, training, and contract oversight which occurred subsequent to the procurements reviewed in the Audit. Specifically, the City:

- Requires relevant staff to attend (at a minimum) annual training on federal procurements. These include in-house trainings, HUD trainings, and GLO trainings. For example, on April 22, 2021, an attorney from Baker Hosteler will conduct an in-house training covering the following topics:

Comment 1

compliance with federal procurement, how to do cost-benefit analyses, how to determine when a time and materials contract is appropriate, what types of services require an RFQ or an RFP, Section 3 requirements in CDBG grants and what is a beneficiary for CDBG grants? See [Appendix 1](#) for documentation of a 2019, 3-day GLO CDBG training that included procurement and was attended by numerous City staff. See [Appendix 2](#) for the City's sign in sheets from a FEMA procurement training that covered federal procurement requirements.

- Implemented an updated procurement standard operating procedure in 2019, included at [Appendix 3](#). The City's administrative policies 5-7 (Procurement Standards) Competitive Procurements), available at <https://www.houstontx.gov/adminpolicies/5-7.pdf> and <https://www.houstontx.gov/adminpolicies/5-11.pdf>, respectively, provide additional guidance on compliance with the requirements of 2 CFR Part 200 as well as local requirements as does the City's Disaster Guide, excerpted at [Appendix 4](#).
- Requires the purchasing department to prepare a cost estimate before opportunities are published.
- Requires the purchasing department to prepare a cost analysis before award.
- For the home repair program specifically, in-house estimates are created prior to soliciting bids from pre-qualified contractors, and all bids received are reviewed against this cost estimate, with the lowest responsible and responsive bidder selected.
- Works closely with City legal counsel to ensure compliance. This includes a required review, prior to execution, of all contracts by legal counsel to ensure federal provisions are included. In addition, the Legal Department has created contract templates that incorporate required HUD language and exhibits.
- Implemented a procurement checklist for all federally funded projects to ensure relevant requirements, including inclusion of required terms and conducting applicable price or cost estimates and analysis are followed. Copies of the checklist used by the City for monitoring and overseeing subrecipients are available at [Appendix 5](#).

Comment 1

- Implemented “project gates” for all federal funded projects. This requires that senior procurement staff review the project at several of the key decision points in the procurement process, to ensure appropriate requirements are being followed. The project gates are as follows:
  - Completion of Project Scope;
  - Prior to advertisement;
  - Initial review of proposals / Bid Tabs;
  - After initial evaluation committee scoring;
  - After oral presentations and re-scoring;
  - After receipt of Best and Final Offer (as applicable); and
  - After completion of Executive Summary
- Uses a core, well-trained team to manage all federally funded projects, with a specific lead person assigned to the same.
- Collaborates with the Office of Business Opportunity (“OBO”) to ensure the City broadcasts all procurement opportunities to MWSBE companies.
- Enhanced documentation retention program for all federally funded projects, including having two complete project files maintained in separate locations by separate departments, to create redundancies in case of flood or other events that could comprise files. Electronic copies are also now retained.
- Collaborates among internal departments to expand training opportunities for federally funded programs and procurement process changes.
- Hired a third party auditor, Deloitte, to closely review multiple procurements conducted by the City for federally funded projects and to recommend areas for improvement. Deloitte made comprehensive recommendations, which were adopted by the City.
- Procurement activities, among other federal requirements, are routinely reviewed by an internal auditor hired by the Housing and Community Development Department. While we anticipated that this self-monitoring can always identify additional areas for improvement, the extensive efforts to strengthen procurement practices, including external and internal monitoring, should be recognized.

Comment 2

**3. The City did properly procure its master contract agreements (“MCAs”) for home repair assistance, but unfortunately some of the documentation requested by the OIG could not be produced as it appears to have been lost due to the flooding and/or office moves.**

The Draft Audit concludes that the City did not always ensure that its MCAs were procured in accordance with applicable requirements, but fails to distinguish between actual failures versus an inability to prove compliance due to lost documentation. By way of background, the MCA request for proposals (“RFP”) was published on the date Hurricane Harvey hit Houston, and proposal responses received were evaluated in the midst of the post-hurricane devastation. Twenty-four responses were received to the solicitation, with 12 selected for MCA execution. Contracts were largely executed in January and March 2018. The number of responses alone supports a conclusion that the City promoted competition in its procurement. While the City believes all procurement requirements were observed, including evaluation of pricing proposals and completion of all components of the scoring sheets, the City was unable to provide complete documentation to the OIG in support of the foregoing. We believe this is due to office moves necessitated by the flood damage Hurricane Harvey caused to the City’s procurement offices. In addition, the City primarily utilized a hard copy, paper environment, which means the City did not have electronic backup documentation for procurement files. Turnover in the staff who oversaw the MCA procurement also occurred.

Comment 3

The Draft Audit also complains that the City could not produce documentation explaining why an evaluation scoring spreadsheet<sup>1</sup> provided to the OIG included different scoring for Section 2.2 than was included in the RFP. The Draft Audit indicated that an RFP amendment should have been published to support this change, but the City could not provide one. That change included in the spreadsheet was either a typo or inadvertent error, however, and did not impact the competitive nature of the procurement or its outcome. First, that change was applied to all 24 proposals received. There were substantial scoring differences between the 12 selected proposals and the 12 that were not selected. Notably, there is a 59 point differential between the 12th top proposal score (304) and the 13th rated proposal (245); this far exceeds the 5-point change identified in the Draft Audit. The point differential widens substantially among the remaining 11 proposals that were not selected. Further, the majority of applicants received similar scoring in Section 2.2. As such, this was at most an inadvertent error that did not change or otherwise affect the competitive nature of the procurement.

The Draft Audit also notes that, while there was no evidence of any contractors receiving preferential treatment, it also had concerns about contract increases or decreases because the price proposals could not be found.

Given the foregoing, the City will plan to work with HUD to resolve this issue in accordance with Recommendation 1A, by providing a documented reevaluation of the procurement showing that it provided the best advantage to the City and HUD.



Comment 4

**4. The Draft Audit found that the City “generally ensured it followed procurement contracts” for four out of five contractors awarded home repair bids**

The City was able to identify and produce cost documentation for the majority of home repair contracts reviewed by the OIG. We recognize that the City could not produce independent cost estimate (“ICE”) documentation for 6 contracts awarded to the remaining contractor, however, the valuation report that was produced, which includes those 6 projects, was sufficiently close in time to the procurement that we believe it supports the cost reasonableness of the procurement. The City will work with HUD to resolve this issue in accordance with Recommendation 1B, so that HUD can confirm the cost reasonableness of the contracts.

Comment 5

**5. The City has significantly improved its subcontractor oversight.**

Comment 6

The City takes its oversight obligations seriously. As detailed in above, the City recognized some time ago that its subrecipient and subcontractor oversight could be improved and the issues with the buyout demolition and appraisal contracts will not be repeated. We do take issue with the Draft Audit’s assertion that the ICE was insufficient for the demolition contract and was not conducted for the appraisal contracts, as per-unit ICEs were performed for both. We suspect there may have been some confusion with respect to the demolition ICE since the contracts at issue covered both the City’s buyout work as well as other subrecipient work. Please see attached ICEs for both demolition and appraisal work at Appendix 6. We will work with HUD in accordance with Recommendations 1C and 1D to support the cost reasonableness of the four contracts reviewed in the Draft Audit in connection with Harris County’s work on the City buyout program.

Comment 6

**6. The City has revised its policies and processes to ensure that all required contract provisions are included in its HUD-funded contracts, and has further revised the contracts at issue in the Draft Audit to reflect such provisions.**

As indicated above, the City has substantially augmented its procurement policy and processes to ensure that required provisions are included in all current and future contracts.

Comment 6

**7. The City has substantially improved its processes for subrecipient monitoring.**

While we respectfully disagree with the Draft Audit's statement that the City did not always understand procurement requirements, and while the City did conduct subrecipient monitoring (as acknowledged in the Draft Audit), we recognize that improvements needed to be made, and we have done so. As referenced above, the City has augmented its subrecipient monitoring in the following ways:

- All contracts to be executed by subrecipients are closely reviewed by the City before execution to ensure applicable compliance requirements and federal language are included. All Houston Public Works construction contracts must include a City-developed HUD 00800 Supplemental Conditions form that specially adds federally-required language and funding requirements.
- The City conducts on-site construction site reviews. Likewise, Houston Public Works will soon procure construction management and inspection services for its construction contracts awarded pursuant to HUD funding, and will do so in a HUD-compliant manner. The City will closely oversee this compliance.
- The City confirms with all subrecipients that a cost analysis must be performed before a bid is advertised.
- Subrecipient agency files are reviewed annually by the City's compliance and Uniform Relocation Act teams to ensure Agreement requirements are being met. When deficiencies are noted in the review letter, the City ensures that deficiencies are resolved in order to successfully close out the reviews.

Comment 6

- Contracts between subrecipients and others may not be increased without prior approval of the Housing and Community Development Department director. City approval is only granted if changes are consistent with federal requirements and the applicable budget.
- The Harris County Flood Control District, the subrecipient working on the buyout project under the Grant, is required to submit to the City both monthly and quarterly reports. All reports are reviewed by the City with any concerns noted and discussed with the subrecipient.
- Project kick-off meetings are held before the projects start. During the kick-off meetings, the City confirms with the subrecipient the City's and HUD's funding requirements, reporting, procurement, and project-related requirements.
- The Housing and Community Development Department holds bi-weekly project meetings with the Harris County Flood Control District.

Comment 6

**8. The City has already implemented Recommendations 1E through 1H.**

Recommendations 1E through 1H refer to development of checklists, policy and procedure updates, training, and improved monitoring. As detailed above in this response, the City had already implemented all of the above-referenced recommendations. As such, we respectfully request that Recommendations 1E through 1H be removed from the Draft Audit as it is finalized.

We very much appreciate efforts by Congress and HUD to allocate CDBG-DR and other funding to the City to assist with recovery efforts. The City strives to be good stewards of the federal funds entrusted to us – and we have been.

Sincerely,

Tom McCasland  
Director, Housing and Community Development Department

### OIG Evaluation of Auditee Comments

**Comment 1** The City stated that its current procurement policies, processes, and monitoring have corrected all of the issues cited in the draft report. The City emphasized significant enhancements to its procurement policies, procedures, training, and contract oversight, which it implemented subsequent to the procurements reviewed in the audit. In addition, with its response, the City provided the following as evidence of these enhancements: (1) CDBG training and agenda; (2) sign-in sheets for procurement training; (3) updated Housing and Community Development Department Procurement standard operating procedure; (4) procurement excerpts from the City's Disaster Guide; and (5) newly-implemented subrecipient oversight checklists.

As communicated to the City, and due to the voluminous nature and inclusion of personal information, we did not include the additional documentation submitted by the City in this final report.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. The City will need to provide the documentation to HUD and continue to work with HUD to resolve the findings and address the report recommendations during the audit resolution process.

**Comment 2** The City asserted that it properly procured its master contract agreements for home repair assistance, but some of the documentation requested by OIG could not be produced due to office moves necessitated by flood damage. In addition, the City stated that the draft report concluded that the City did not always ensure that its master contract agreements were procured in accordance with applicable requirements but failed to distinguish between actual failures and an inability to prove compliance due to lost documentation. The City further stated that it received 24 responses to the solicitation, with 12 selected for master contract agreement execution; and, that the number of responses alone supports a conclusion that the City promoted competition in its procurement.

We agree that the City had adequate competition with 24 bidders. However, as stated in the report, the City did not always follow procurement regulations, as related to restricting competition by making arbitrary actions in the procurement process and excluding price from consideration. In addition, as agreed by the City in its comments to the draft report, the City could not provide adequate documentation to support that it followed procurement requirements when executing the procurement for its master contract agreements, as required by Federal regulations. Therefore, we maintain our original conclusions and recommendations.

**Comment 3** The City stated that the draft report says the City could not produce documentation explaining why an evaluation scoring spreadsheet provided to OIG included different scoring for section 2.2 of the request for proposal than was included in the actual request for proposal. The City asserted that the change included in the spreadsheet was either a typographical or inadvertent error that did not impact the competitive nature of the procurement or its outcome. It further stated that the change was applied to all 24 proposals received and there were substantial scoring differences among the 12 selected proposals and the 12 that were not selected. As such, this was at most an inadvertent error that did not change or otherwise affect the competitive nature of the procurement. The City also stated that it planned to work with HUD to resolve the issues in accordance with recommendation 1A by providing a documented reevaluation of the procurement, showing that it provided the best advantage to the City and HUD.

We acknowledge the City's efforts and willingness to correct the deficiencies identified in the report. However, we disagree that the City's actions did not impact the procurement or its outcome, as the five-point differential is not the only arbitrary action taken by the City. As stated in the report, in addition to increasing the technical weighted factor from 35 to 40 points in section 2.2 of the request for proposal during the evaluation process, the City also did not complete the pass-fail section for bidder responsiveness for any of the 24 bidders and did not consider any of the price proposals, worth 15 points, submitted by these bidders. In addition, the City did not document the reasons for the actions, inform bidders, or identify or take actions to correct these issues before awarding the contracts.

Further, the City could not provide the price proposal documentation submitted by the bidders or documentation supporting that it adequately considered price for the contracts during the procurement process, as required. Federal regulations state that price cannot be excluded from consideration. Considering the arbitrary actions taken by the City and the lack of price proposal documentation, it could not provide HUD reasonable assurance that it did not restrict competition and ensured the most advantageous situation for it and HUD when awarding the 12 contracts.

Therefore, we maintain our original conclusion and recommendations. The City will need to provide its additional documentation to HUD and work with HUD to resolve the findings and recommendation 1A during the audit resolution process.

**Comment 4** The City recognized that it could not produce independent cost estimate documentation for six contracts. The City asserted that the valuation report that it produced, which included those six projects, was sufficiently close in time to the procurement. It believed that the valuation report supported the cost reasonableness of the procurement. The City also stated that it will work with

HUD to resolve this issue in accordance with recommendation 1B so that HUD can confirm the cost reasonableness of the contracts.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. However, we disagree that the valuation reports were sufficiently close in time to the procurement. As stated in the report, Federal regulations state that the City must perform independent cost estimates **before** receiving bids or proposals. The valuation reports were dated almost 5 months **after** the City received the bid proposals and almost 1 month **after** the contract award date and, therefore, did not meet HUD requirements. As such, we maintain our original conclusions and recommendation. The City will need to work with HUD to resolve the finding and address report recommendation 1B during the audit resolution process.

**Comment 5** The City took issue with our conclusion in the draft report that the independent cost estimate was insufficient for the demolition contract and was not conducted for the appraisal contracts, and asserted that per-unit independent cost estimates were performed for both. The City stated that it suspected that there may have been some confusion with respect to the demolition independent cost estimate because the contracts at issue covered both the City's buyout work as well as other subrecipient work. With its response, the City provided independent cost estimates for both demolition and appraisal work. The City also stated that it would work with HUD in accordance with recommendations 1C and 1D to support the cost reasonableness of the four contracts reviewed in the draft report in connection with Harris County's work on the City buyout program.

We agree there is confusion regarding the independent cost estimate for the demolition contract. During the audit, we received two different independent cost estimates for the demolition contract: one showing estimated costs of \$5 million, dated May 25, 2018, and another showing estimated costs of \$3 million, dated June 15, 2018. The independent cost estimate submitted with the City's response, dated May 3, 2018, shows estimated costs of \$8,000 per unit. In addition, the City did not provide a cost analysis for a contract amendment that increased the demolition contract amount by \$1.7 million.

For the three appraisal contracts, with its response the City submitted an independent cost estimate for each of these contracts. However, we did not question the lack of an independent cost estimate, but rather, the lack of cost analyses for contract amendments executed with the existing appraisers to provide services under the housing buyout program, which increased the original contract amount.

Therefore, we maintain our original conclusion and recommendations. The City will need to work with HUD to resolve the finding and address report recommendations 1C and 1D during the audit resolution process.

**Comment 6** The City stated that it has (1) significantly improved its subcontractor oversight, (2) revised its policies and processes to ensure that all required contract provisions are included in its HUD-funded contracts, and has further revised the contracts at issue in the draft report to reflect such provisions; (3) substantially improved its processes for subrecipient monitoring; and (4) already implemented recommendations 1E through 1H. The City requested that recommendations 1E through 1H be removed from the final report.

We acknowledge the City's efforts toward correcting the deficiencies identified in the report. The City did not provide sufficient documentation to support its claim. Therefore, we did not remove recommendations 1E through 1H from the final audit report. The City will need to provide the final documentation to HUD for a comprehensive evaluation and continue to work with HUD to resolve the findings and address the report recommendations during the audit resolution process.

## Appendix C

### Prequalified Contractors' Award Details

Contractor count	Contract execution date	Contract end date	Contract amount	Disbursed amount <sup>33</sup>
1	3/13/2018	3/13/2021	\$900,000	\$35,198
2	1/29/2018	1/29/2021	900,000	
3	3/27/2018	3/27/2021	900,000	
4	3/16/2018	3/16/2021	900,000	49,256
5	4/13/2018	4/13/2021	900,000	
6	1/29/2018	1/29/2021	900,000	
7	1/29/2018	1/29/2021	900,000 <sup>34</sup>	1,415,980
8	3/13/2018	3/13/2021	900,000	
9	1/29/2018	1/29/2021	900,000	
10	1/29/2018	1/29/2021	900,000	54,027
11	3/13/2018	3/13/2021	900,000	101,963
12	1/29/2018	1/29/2021	900,000	
<b>Totals</b>			<b>10,800,000</b>	<b>1,656,424</b>

<sup>33</sup> As of October 13, 2020

<sup>34</sup> After the initial award, the City reduced the award amount for some contracts and increased the award amount for this contract to nearly \$2.3 million as of January 2019. The overall total remained \$10.8 million. The City stated that it would, on a contract-by-contract basis, transfer unallocated funds to fund contracts if it had insufficient funds available.



**ORAL**

Chairman Green, Ranking Member Emmer, and members of the Financial Services Oversight and Investigation Subcommittee, thank you for the opportunity to discuss the Community Development Block Grant–Mitigation funds of \$4.3 billion allocated to the State of Texas after Hurricane Harvey.

My name is Carol Haddock and I am the Director of Houston Public Works, a department responsible for Houston’s public street, drainage, water, and wastewater infrastructure as well as permitting and inspection of development for more than 2.3 million Houstonians. In this role, I am in the midst of recovery from Hurricane Harvey. Houston has a significant flooding history, but we are committed to Build Houston Forward toward a Resilient Houston that will be ready to withstand the next storm, since we all know that there will be a next storm. However, we still face significant challenges – and one of the biggest ones today is fact that the General Land Office has failed Houstonians.

Even after input and warnings from multiple communities and their leaders, the State of Texas submitted an Action Plan that resulted in no funding award to the areas in Texas that received the most damage from Harvey, which are:

- Aransas and Nueces Counties – where Harvey made landfall as a Category 5 Hurricane
- Jefferson County – which endured the highest rainfall

- The City of Houston and Harris County – which suffered 50 percent of the damage statewide

The Texas General Land Office’s process for allocating granted zero dollars to these localities. It was only after bipartisan political pressure that the GLO retroactively requested \$750 million for Harris County.

The complaints and criticism of the GLO’s process is not new. There have been multiple points where the City of Houston has elevated our concerns – to no avail:

- Both Mayor Turner and Chief Recovery Officer Steve Costello offered comments at a December 11, 2019 hearing on the draft version of the State Action Plan. At this hearing, the City specifically requested that MITIGATION funding be used to:
  - Revise programs to ensure the distribution is proportional to the impacts of Hurricane Harvey and previous storms for areas that are at highest risk.
  - Increase the maximum points for Mitigation/Resiliency Measures to provide actual mitigation.
  - Revise program language to incentivize regional coordination through the joint application process.

These next two really cut to the heart of the matter.

- Remove the limit on project applications by entity and the cap on grant awards

- Remove the percentage of persons benefitting within jurisdictions” language

These two items essentially ensured that Houston and Harris County could not obtain funding – as projects were limited in size by funding caps and then we were punished because these smaller projects didn’t benefit the full population or the 2.3 million Houstonians. These comments were also submitted in writing on January 6, 2020. However, the requested changes were not incorporated in the GLO’s State Action Plan.

More than a year later, on June 17, 2021, the GLO announced the outcome of this flawed State Action Plan. As previously warned, the City of Houston and Harris County received no funding allocation. Every single City of Houston and Harris County elected official signed a joint letter to Commissioner Bush to reconsider, revise the metrics and allocate CDBG-Mitigation funding based on the proportionality of damages.

In my day to day job as Director of Houston Public Works, I see Houstonians that are still struggling to recover from Hurricane Harvey. Next month it will have been four years since these damages were inflicted. Four years. And to date, the response from the GLO is that mitigation is not worthy of funding in Houston.

Houston on the other hand took immediate action to ensure that people would not put themselves in harm’s way. Houston updated our floodplain standards

and issued substantial damage letters to more than a thousand homeowners – requiring that they not be repaired but be brought into code compliance. New homes are required to be built higher above the floodplain and we implemented a proxy for the higher rainfalls amounts from Atlas 14. We have increased required detention for new development. We are doing our part. We need Federal help to get existing, historic development out of harm's way.

On June 11, 2021, Mayor Turner and Judge Hidalgo requested that Secretary Fudge work with Texas's GLO to disburse an equitable and proportional amount of the \$4.3 billion to entities within Harris County – specifically to Harris County and The City of Houston as direct subrecipients. To support this ask, we noted approximately half (more than 154,000 of the 300,000) structures that flooded and 36 of the 68 fatalities were in Harris County.

In contrast, over 40% of the funds award under the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program went to the City of Houston and Harris County. We thank the Texas Division of Emergency Management for their great partnership in getting these funds into local hands.

To date, the City of Houston has still not been allocated CDBG-MIT funding under the Hurricane Harvey State Mitigation Competition. In fact, as presented in the June 18, 2021 letter, the State uses previous awards from

2015 and 2016 flooding events as an excuse that Houston doesn't need the current funding.

The City of Houston looks forward to working with the U.S. House Financial Services Committee to address this significant travesty in funding so that the impacted families and businesses in Houston can implement necessary mitigation so that they will thrive in the future.

I would be happy to answer your questions.

Thank you.



### Testimony of Harris County Judge Lina Hidalgo

#### Hearing Before United States House Financial Services Subcommittee on Oversight and Investigations

#### *"CDBG Disaster Recovery: States, Cities, and Denials of Funding"*

July 15, 2021

Congressman Green, Ranking Member Emmer, thank you for inviting me here today.

On behalf of the people of Harris County, I want to express my sincere gratitude for calling this hearing and for your work to reform vital programs our community depends on to recover from disasters.

I'd like to begin my testimony by sharing with you the story of Sergeant Steve Perez, a veteran of the Houston Police Department.

On the morning of Sunday, August 27, as Hurricane Harvey began its slow and deadly march over Harris County, Sergeant Perez did what thousands of other brave first responders did during the storm - he went to work. With rain barreling down across our county, his wife Cheryl, concerned about the weather, asked Sgt. Perez to stay home.

But Sergeant Perez - as he did each day of his 34 years at HPD - chose duty above all and went to work anyway, knowing that the people of Harris County needed his service, particularly as Hurricane Harvey began to take hold.

When he did not arrive for his regular roll call the next day, his fellow officers grew worried and began a search. Not long after, they found Sgt. Perez in his patrol vehicle. He had drowned in flood waters under an underpass near the Hardy Toll Road and Beltway 8, just two days away from his 61st birthday.

The tragic loss of Sergeant Perez, who was described as "a sweet, gentle public servant," was just one of the 68 fatalities from Hurricane Harvey statewide, 36 of which occurred right here in Harris County.

As our county's Chief Executive, and as our county's chief emergency manager, I have seen first-hand the heartbreaking devastation our communities are still reeling from since Hurricane Harvey struck in 2017. While the daily national media attention has faded, today, there are still thousands of families suffering in silence. Businesses that have not recovered, homeowners, renters and neighborhoods, all yearning to benefit from long term mitigation projects before the next flood strikes. Yet, due to CDBG disaster programs mired in red tape, complexity, and uncertainty, millions of our residents - particularly vulnerable ones - continue to feel abandoned and frustrated.

Harris County bore the majority of fatalities in Texas due to Hurricane Harvey. We also suffered the most damage compared to any other jurisdiction in our state. More than half (around 154,000) of the roughly 300,000 homes damaged or destroyed across the state during Harvey were in Harris County. Each of those structures has a family or a story, a lifetime of wealth built up in it, a family business unique to our county, or a workplace on which people rely to make a living. And Harvey is not the only major storm to affect Harris County. Harris County has experienced four 500-year storms in a period of just five years.

Harris County is a big county with roughly five million people and the geographic size of the state of Rhode Island. Not only are we the largest jurisdiction in Texas, but we, along with the City of Houston, are also the economic engine for much of the Southwestern U.S, and the epicenter of our national energy infrastructure. For example, the Harris County region employs nearly a third of the nation's jobs in oil and gas extraction and is home to 4,600 energy-related companies. When disasters strike our region, lives and property are at risk, and so is the vital infrastructure that supports our economy.

Yet despite our past losses, despite our growing risk in the face of climate change, and despite the national importance of our critical infrastructure, our county received zero CDBG mitigation funds in the latest round of funding administered by the State of Texas General Land Office. Some smaller cities within Harris County received around \$90 million in total for smaller projects, but those funds do not come anywhere close to meeting our countywide need or expectation for federal funds.

In response, I have joined Mayor Sylvester Turner of the City of Houston in asking HUD Secretary Marcia Fudge for certainty in an allocation and for a review of the criteria used. I have also expressed those two goals to members of our Congressional delegation. First, the GLO must make the \$750 million direct allocation to Harris County it has announced publicly, which we view as an initial "down payment" relative to what our community needs. Second, the City of Houston and Harris County must each receive at least \$1 billion in CDBG-MIT funds. We ask that HUD approve the portion of the GLO's Action Plan amendment that pertains to the \$750 million for Harris County, but reject the flawed allocations.

The Harris County Flood Control District acts as the flood control district for all cities within our county, and approximately half of my constituents are residents of the City of Houston. I want to stress that Harris County supports the City of Houston in its efforts to obtain its own funds. I must also note that, if approved by HUD, the projects proposed in the current Action Plan for the \$750M are focused on LMI areas of the County, and around half the funding would go to projects located within the City of Houston.



## LINA HIDALGO

CDBG-MIT funds are a lifeline for the long term health of Harris County. We are doing our part by supporting billions of dollars in projects through our local flood bond, but our federal and state partners must do their part.

In addition to this recent debacle with the CDBG-MIT program, the CDBG-DR program has also been a source of trauma and frustration for our residents, as it has been for so many other grantees across the nation. Particularly when it comes to programs like the Homeowner Assistance and Reimbursement Programs, which are designed to help and protect vulnerable and low income individuals and families from future disasters. Unlike FEMA funds, which flow quickly and with certainty in the hours after a declared disaster, CDBG-DR funds take years to reach survivors, with no certainty as to how much or when funds will arrive. Each grantee has a different way of administering the funds and the funds are mired in delays as rules are developed for each grantee, RFP's are written, and other statutory delays are factored in. There is no intuitive or standard way for survivors to sign up for help, required documentation is burdensome and varies, and previous assistance that residents received from non-profit groups in the meantime are eventually counted against them. The bottom line is that CDBG-DR funds are treated as routine federal grant programs instead of what they should be: emergency funds that survivors and local officials need quickly, fairly and with certainty.

Let me be frank: When it comes to flood control or flood recovery relief, the people of Harris County don't care about action plans, or appropriations, or competition rules, or which agency is the source of funds. They care about results. That's why we'll continue to fight for every dollar we can receive, regardless of where it comes from, and to advocate for aid to come quickly after disaster strikes.

With that, I am happy to take any questions you might have.



**GLO Testimony for US House Financial Services Subcommittee on Oversight and Investigations  
Virtual Hearing - CDBG Disaster Recovery: States, Cities, and Denials of Funding  
Thursday, July 15, 2021 at 12pm EST**

Good afternoon Chairman Green, Ranking Member Emmer and members of the committee. My name is Heather Lagrone. I am the Senior Deputy Director for Community Development and Revitalization at the Texas General Land Office (GLO). Thank you for having me here today. I am grateful for the opportunity to help clarify the record on our recent mitigation allocation and, in so doing, hopefully provide information that will be helpful in removing some of the restrictions that limit state's options when disbursing these kinds of funds.

On February 8, 2018, Congress passed Public Law 115-123, directing the U.S. Department of Housing and Urban Development (HUD) to make available no less \$12 billion dollars in Community Development Block Grant Mitigation (CDBG-MIT) funds to specific grantees that received Community Development Block Grant for Disaster Recovery (CDBG-DR) allocations for 2015, 2016 or 2017 disasters in the same proportion as received in CDBG-DR funds. With no further congressional intent provided and more than 1.5 years later, HUD published Federal Register Vol 84, No 169, dated Friday, August 20, 2019, named the State of Texas as the grantee responsible for administering almost 4.3 billion dollars in mitigation funding in 140 total eligible counties.

I want to emphasize here that the federal register specifically indicated mitigation funds were provided to **mitigate** disaster risks and **reduce future loss** in areas impacted by recent disasters, in contrast to some public statements, none of this money could be used for recovery from past events. HUD was very specific that CDBG-MIT funds are to be used for distinctly different purposes than CDBG-DR funds. *84 FR 45839 (August 30, 2019)*

The *State of Texas CDBG Mitigation Action Plan: Building Stronger for a Resilient Future* outlines the use of funds, programs, eligible applicants, and eligibility criteria in accordance with HUD rules, requirements, and extensive guidance. The plan included competitions for eligible entities of each of the three disaster years, and eight additional programs for mitigation projects and resilient housing totaling nearly 4.3 billion dollars.

The plan was sent to HUD on February 3, 2020, after an extraordinary public outreach effort including a 50-day public comment period and eight regional public hearings, more than doubling HUD's federal requirements. HUD approved the plan, including the mitigation competition scoring criteria, on March 31, 2020. HUD and the State of Texas executed a grant agreement allowing Texas to begin CDBG-MIT programs January 12, 2021

Of the \$4.3 billion dollars allocated to the State of Texas, the GLO set aside \$2.3 billion to fund local mitigation projects through a competitive process. In May of 2020, the GLO launched the first round of the competition for nearly \$1.2 billion of the competition funding. Applications were submitted by cities, counties, and special purpose districts in eligible Texas counties impacted by Hurricane Harvey and severe flooding in 2015 and 2016 – as required by the Federal Register. The GLO received more than \$6.5 billion in requests for mitigation project funding, underscoring the urgent need for increased resiliency throughout the eligible area. Applications closed for the first round of funding October 28, 2020, and the GLO evaluated all 290 submitted applications in accordance with the HUD-approved scoring criteria and CDBG-MIT eligibility. Eligible applications with the highest scores were awarded funds.

The GLO conducted three competitive application programs:

2015 Floods State Mitigation Competition – GLO awarded \$31 million to four grantees on March 2, 2021.

2016 Floods State Mitigation Competition – GLO awarded 21 grantees with \$135 million on Mar 11, 2021.

Hurricane Harvey State Mitigation Competition Round 1 – GLO awarded 81 grantees with \$975 million in May 2021.

To understand the shift in focus from HUD's CDBG-DR program to this new CDBG-MIT program, it is important to note HUD's definition of mitigation, which is defined as:

*Those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. —84 FR 45838 (August 30, 2019)*

HUD further noted:

*Unlike CDBG-DR funds where grantees must demonstrate that their disaster recovery funds “tie back” to a specific disaster and address a specific unmet recovery need for which CDBG-DR funds were appropriated. CDBG-MIT funds do not require such a “tie back” to the specified qualified disaster that has served as the basis for the grantee’s allocation of CDBG-MIT funds. —84 FR 45849 (August 30, 2019)*

Based on this definition and clarifying statement the GLO was not able to use damage assessments from previous storms when developing the competition scoring criteria.

In a letter to the GLO on June 14, 2021, HUD stated, “Unlike CDBG-DR allocations, which are allocated based on a long-established damage-based formula, CDBG-MIT was made available in Public Law 115-123” confirming that the GLO could not consider previous damages in administering the funds. While drafting the action plan, GLO staff was repeatedly reminded by HUD staff that previous damage was not to be a consideration for funding. If we had been able to use the Federal Emergency Management Agency (FEMA) damage assessment, which is used to score Hazard Mitigation Grant Program

applications, then those who received the most damage during their applicable event could have scored the highest for that criteria.

The federal government, not the GLO, forbade damage from any previous disaster from being included as a scoring criterion in the funding competition. The GLO was required to develop a methodology to quantify risk without using damage from previous storms or other disaster events. Since mitigation is an entirely new CDBG program for HUD, there was no standard model for the GLO to use. Composite Disaster Index (CDI) was the GLO's quantification of risk. Projects that scored well on CDI, but were not awarded, did not score well on other criteria required – and prioritized – by HUD.

Harris County is 1 of 28 counties impacted by all three eligible events. The county government, Harris County Flood Control District and the City of Houston did not submit applications that were competitive against the higher scoring projects submitted by other eligible entities and, as such, did not directly receive funding from the Hurricane Harvey mitigation competition.

However, several projects within Harris County received awards totaling \$117,213,863 in the first round of the mitigation competition. Harris County projects were awarded \$90.4 million from the Harvey allocation and \$26.7 million from the 2016 storms allocation. This is in addition to the \$61,884,000 direct HUD allocation to the City of Houston for 2015 flooding.

Composite Disaster Index, Social Vulnerability, Per Capita Market Value were all worth 10 points. Higher point values were applied to HUD's Low to Moderate Income (LMI) National Objective and Project Impact worth 20 and 25 points respectively, as they were noted by HUD in the Federal Register and other guidance as major priorities.

For the first time, HUD also required a benefit-to-cost ratio, or Project Impact. In training sessions, HUD specified that the benefit cost analysis did not need to mirror those of FEMA or the United States Army Corp of Engineer's (USACE) but the factor did need to be considered. HUD also recognized in the Federal Register the challenges aligning CDBG-MIT funds and a benefit to LMI persons. The methodology for Project Impact included the total project application amount per total project beneficiaries and the percentage of project beneficiaries out of the total population within the applying jurisdiction.

The GLO set clearly defined scoring criteria that was made available to all eligible applicants for more than 6 months before the application opened. These scoring criteria were made in consultation with HUD to ensure the state action plan would be approved. No part of the action plan was unknown to HUD program staff. The process was transparent, and applicants were scored equally based on the information they provided in their applications.

For the record, Texas Land Commissioner George P. Bush was, by design, recused from the scoring committee and the scoring process. The commissioner was informed of the competition results only after the projects had been through eligibility review and scored in accordance with the federally approved action plan.

The GLO now plans to subaward \$750 million in mitigation funding for Harris County. The GLO in coordination with Harris County has drafted an action plan amendment that will include a set aside of \$750 million in CDBG-MIT funding for the County to develop a method of distribution. The remaining funds in the Mitigation Competition, HMGP: Supplemental, Coastal Resiliency, and Planning Programs will be reprogrammed to direct at least \$500 million in additional funds into the Regional Mitigation Program. HUD outlines its rules and requirements for action plan amendments and distribution of funds in the Federal Register. There are currently three active Federal Register notices governing CDBG-MIT funding. As a subrecipient, Harris County must abide by these rules and requirements and the GLO must ensure compliance.

Per HUD requirements, the Action Plan Amendment is currently being translated from English into 5 additional languages. When translation is completed, we are required to post the amendment for public comment for 45 days and hold a public hearing to gather additional comments. Once we have responded to the comments, the action plan amendment will be sent to HUD, which has up to 60 days to approve or deny the amendment.

As a state operating under 20 different Federal Register notices for 7 CDBG-DR grants and 3 Federal Register's for one CDBG-MIT grant, streamlining of the process and permanently codifying CDBG-DR grant funding will be extremely beneficial. It will provide grantees clearer guidance, reduce the time it takes from disaster impact to program implementation and prevent references to multiple Federal Register notices.

I'm happy to answer any of your questions.

**Testimony of Sarah Saadian,**  
**Vice President of Policy, National Low Income Housing Coalition**  
 Presented to the Subcommittee on Oversight and Investigations  
 Committee on Financial Services  
 United States House of Representatives  
**“CDBG Disaster Recovery: States, Cities, and Denials of Funding”**  
 July 15, 2021

## **I. Introduction**

On behalf of the National Low Income Housing Coalition (NLIHC) and the Disaster Housing Recovery Coalition (DHRC), I would like to thank Chairman Green (D-TX) and Ranking Member Emmer (R-MN) for the opportunity to testify before you today on ways to ensure that our nation’s disaster recovery and mitigation efforts address the unique and often overlooked needs of the lowest-income and most marginalized survivors, including people of color, people with disabilities, people experiencing homelessness, and others.

The National Low Income Housing Coalition (NLIHC) is dedicated solely to achieving socially just public policy that ensures people with the lowest incomes in the United States have affordable and decent homes. NLIHC leads the DHRC of more than 850 national, state, and local organizations, including many working directly with disaster-impacted communities and with first-hand experience recovering after disasters. We work to ensure that federal disaster recovery efforts prioritize the housing needs of the lowest-income and most marginalized people in impacted areas. The DHRC has published a comprehensive set of recommendations for Congress,<sup>1</sup> the Federal Emergency Management Agency (FEMA),<sup>2</sup> and the U.S. Department of Housing and Urban Development (HUD).<sup>3</sup>

NLIHC has worked on disaster housing recovery issues in the years since Hurricane Katrina struck New Orleans in 2005, and from this experience, we have concluded that America’s disaster housing recovery system is fundamentally broken and in need of major reform. It is a system that was designed for middle-class people and communities – a system that does not address the unique needs of the lowest-income and most marginalized people and the communities in which they live. As a result, these households are consistently left behind in recovery and rebuilding efforts and their communities are made less resilient to future disasters. The federal disaster recovery system exacerbates many of the challenges these communities faced prior to the storm, worsening the housing crisis, solidifying segregation, and deepening inequality.

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<sup>1</sup> National Low Income Housing Coalition. (2020). Congressional Housing Recovery Policy Recommendations. Retrieved from: <https://nlihc.org/sites/default/files/Congressional-Disaster-Recommendations.pdf>

<sup>2</sup> National Low Income Housing Coalition. (2020). Federal Emergency Management Agency Housing Recovery Policy Recommendations. Retrieved from: <http://nlihc.org/sites/default/files/FEMA-Disaster-Recovery-Recommendations.pdf>

<sup>3</sup> National Low Income Housing Coalition. (2020). U.S. Department of Housing and Urban Development Housing Recovery Policy Recommendations. Retrieved from: <https://nlihc.org/sites/default/files/HUD-Disaster-Recovery-Recommendations.pdf>

The Community Development Block Grant – Disaster Recovery (CDBG-DR) and CDBG – Mitigation (CDBG-MIT) programs are vital recovery tools that provide states and communities with the flexible, long-term recovery and mitigation resources needed to rebuild affordable housing and infrastructure after a disaster and to prepare for future harm. These resources are particularly critical for the lowest-income disaster survivors and their communities. Too often, however, these resources are diverted away from the people and communities with the greatest needs and for whom the program was designed to serve.

Inequitable disaster recovery efforts disproportionately harm Black, Indigenous, Latino, and other survivors of color and their communities. Recovery efforts tend to prioritize homeowners, who are more likely to be white, over renters, who are predominantly Black and brown. In doing so, disaster recovery exacerbates racial wealth disparities and pushes more low-income renters of color into long-term housing instability and, in worst, cases homelessness. While Black and brown communities are often located in areas at higher risk of disaster and have less resilient infrastructure to protect residents from harm, CDBG-DR infrastructure resources tend to go to white communities that face lower risks. Rather than dismantling racial segregation that is the direct result of intentional federal, state, and local policy, rebuilding efforts tend to reinforce legacy of Jim Crow and entrench racial disparities.

In my testimony today, I will discuss key barriers to an equitable and comprehensive disaster housing recovery and opportunities to reform the CDBG-DR and CDBG-MIT programs to ensure that these resources are deployed quickly, equitable, and effectively. These barriers<sup>4</sup> and opportunities for reform<sup>5</sup> are reflected in “Fixing America’s Broken Disaster Housing Recovery System,” a two-part report published by NLIHC and Fair Share Housing Center of New Jersey.

These policy recommendations also reflect nine core principles that should guide our country’s disaster housing recovery and mitigation efforts:

1. Recovery and mitigation must be centered on survivors with the greatest needs and ensure equity among survivors, especially for people of color, low-income people, people with disabilities, immigrants, LGBTQ people, and other marginalized people and communities;
2. Everyone should be fairly assisted to fully and promptly recover through transparent and accountable programs and strict compliance with civil rights laws, with survivors directing the way assistance is provided;
3. Securing help from government must be accessible, understandable, and timely;
4. Everyone in need should receive safe, accessible shelter and temporary housing where they can reconnect with family and community;
5. Displaced people should have access to all the resources they need for as long as they need to safely and quickly recover housing, personal property and transportation;

<sup>4</sup> National Low Income Housing Coalition & Fair Share Housing Center. (2019). *Fixing America’s Broken Disaster Housing Recovery System, Part One: Barriers to a Complete and Equitable Recovery*. Retrieved from [https://nlihc.org/sites/default/files/Fixing-Americas-Broken-Disaster-Housing-Recovery-System\\_P1.pdf](https://nlihc.org/sites/default/files/Fixing-Americas-Broken-Disaster-Housing-Recovery-System_P1.pdf)

<sup>5</sup> National Low Income Housing Coalition & Fair Share Housing Center. (2020). *Fixing America’s Broken Disaster Housing Recovery System, Part Two: Policy Framework Reform Recommendations*. Retrieved from: [https://nlihc.org/sites/default/files/Fixing-Americas-Broken-Disaster-Housing-Recovery-System\\_P2.pdf](https://nlihc.org/sites/default/files/Fixing-Americas-Broken-Disaster-Housing-Recovery-System_P2.pdf)

6. Renters and anyone experiencing homelessness before the disaster must quickly get quality, affordable, accessible rental property in safe, quality neighborhoods of their choice;
7. All homeowners should be able to quickly rebuild in safe, quality neighborhoods of their choice;
8. All neighborhoods should be free from environmental hazards, have equal quality and accessible public infrastructure, and be safe and resilient; and
9. Disaster rebuilding should result in local jobs and contracts for local businesses and workers.

These core principles and the following policy recommendations should serve as a guidepost for this committee and other federal policymakers as you work to reform our nation's disaster housing recovery framework.

## **II. Barriers to an Equitable Housing Recovery**

### **Unnecessary Delays**

#### *Congressional Inaction*

Federal funding for long-term recovery through the CDBG-DR program is often delayed by congressional inaction. CDBG-DR funds must be approved by Congress through a disaster supplemental appropriation act. Frequently, disaster relief funds can be swept up into other political debates, delaying much-needed rebuilding and recovery resources from reaching disaster-impacted communities. These delays prevent communities from formally proceeding with many recovery activities that cannot be accomplished without a commitment of federal funds. The timeline for Congress to approve disaster-recovery funding has ranged from several weeks to more than eight months after Hurricane Michael.<sup>6</sup> To date, CDBG-DR funds have not been approved by Congress for disasters that occurred in 2020 such as the Iowa Derecho, Hurricane Laura, or Hurricane Delta.

The lack of formal authorization of the CDBG-DR and CDBG-MIT programs contribute to further delays. Without authorization, HUD must operate program funding through separate Federal Register notices after every major disaster, causing uncertainty for grantees. While most of the allocation notice is repeated from disaster to disaster, each notice is different. Because grantees cannot anticipate the details in the allocation notice, they are often unable to put together action plans until the notice has been issued and reviewed. According to an audit by HUD's Office of Inspector General, between 2005 and 2018, HUD issued 60 Federal Register Notices that grantees must consult when developing their CDBG-DR action plans, slowing down the process.<sup>7</sup>

<sup>6</sup> Sullivan, B., Caldwell, N., & Shapiro, A. (2019). Nearly 8 months after Hurricane Michael, Florida Panhandle feels left behind. *NPR*. Retrieved from: <https://www.npr.org/2019/05/31/727905462/nearly-8-months-after-hurricane-michael-florida-panhandle-feels-left-behind>

<sup>7</sup> U.S. Department of Housing and Urban Development Office of Inspector General. (2018). Office of Block Grant Assistance, Community Development Block Grant Disaster Recovery Program Audit. Retrieved from: <https://www.hudoig.gov/sites/default/files/documents/2018-FW-0002.pdf>

After a HUD allocation notice is issued, an impacted jurisdiction must develop a disaster recovery action plan to receive funding. While jurisdictions often begin work on the plan in expectation of the allocation notice, the plan is not formally released until the notice is out. Once submitted, the approval process typically has been quick, but there are exceptions. The approval period has ranged from nine weeks after the allocation notice for Hurricane Katrina and five weeks after Superstorm Sandy to more than eight months after Hurricane Maria.

Delays in the CDBG-DR program are exacerbated when FEMA prematurely ends its response and recovery assistance. While FEMA programs are authorized for 18 months following a major disaster declaration, in recent years, FEMA has ended programs well before the statutory expiration and before CDBG-DR assistance programs can be implemented. As a result, too many of the lowest-income and most marginalized disasters survivors lose access to urgently needed FEMA assistance before their homes and communities have been rebuilt. Without access to affordable, accessible homes, many of these households face increased housing instability and, in worst cases, homelessness.

#### *State and Local Capacity Issues*

State and local grantees struggle to administer and oversee disaster recovery funds. The amount of CDBG-DR funds that state and local grantees receive after a disaster is often many times what they typically administer. For example, the 2018 HUD allocation to the state of New Jersey for its state Consolidated CDBG Plan was \$24 million; in contrast, the 2013 CDBG-DR allocation to New Jersey after Superstorm Sandy was just under \$5 billion. Moreover, CDBG-DR grantees are required to set up programs with which they often have little experience, at a time when their community and often their own families are in crisis.

State and local grantees often struggle to provide proper oversight of contractors, which grantees rely on for everything from debris removal to repair of electric grids. As a result, recovery programs become a hodgepodge of contracts with little oversight from overburdened officials. It is common for contractors to not perform or underperform on their agreements with state and local grantees. After Superstorm Sandy, New Jersey awarded a \$68 million contract for the implementation of the largest housing-recovery program in the state: the over \$1 billion Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) program.<sup>8</sup>

After the state had already paid the bulk of the contract fee to the contractor, the state took control of the program itself and cancelled the contract after just seven months. In the meantime, lower-income residents complained of lost applications, being incorrectly told they were ineligible for recovery funds, and dysfunctional contractor-run offices. Public records showed an overwhelmed operation that directed applicants to out-of-state call centers where workers had received scant training on the program. Many applicants genuinely in need of recovery funds dropped out of the program as a result. Nearly every CDBG-DR grantee has one or more similar experiences.

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<sup>8</sup> State of New Jersey Department of the Treasury. (2013). Management & other related services of Superstorm Sandy Housing Incentive Program. Retrieved from: [https://nj.gov/comptroller/sandytransparency/contracts/pdf/hammerman\\_solicitation.pdf](https://nj.gov/comptroller/sandytransparency/contracts/pdf/hammerman_solicitation.pdf)



## Recovery and Mitigation Favor Higher-Income, White Communities

### *Faulty Damage and Needs Assessments*

The foundation of many federal, state, and local recovery decisions – including decisions about how to allocate resources and set priorities – is an assessment of the damage caused by the recent disaster and the needs of residents. This data, however, frequently underestimates the needs of the lowest-income survivors, leading to fewer resources in communities where they are needed most.<sup>9</sup>

Data from FEMA’s Individual Assistance (IA) program are frequently used to shape long-term rebuilding efforts. Low-income survivors, however, struggle to access FEMA programs,<sup>10</sup> and as a result, the agency provides far fewer benefits to renters than to homeowners. Recent reports indicate that FEMA approval rates have plummeted overall from 63% in 2010 to 13% in 2021.<sup>11</sup> Relying primarily on FEMA data to make recovery decisions overlooks the needs of renters who were found by FEMA to be ineligible for aid, but who remain in desperate need of recovery funds.

After Superstorm Sandy, New Jersey created a housing recovery program that assumed that only 22% of the housing damage from the storm occurred in rental units. An analysis by advocates showed, however, that the state had undercounted the needs of renters by half. Nearly half of renters impacted by Hurricane Sandy in New Jersey were African Americans and Latino compared to only 16% of impacted homeowners. As a result, the recovery housing program was found to be discriminating by race and ethnicity by under-allocating resources to renters.

In addition to skewed data, methodologies for assessing “unmet need” under CDBG-DR can also lead to inequitable outcomes. Unmet needs assessments are critical to how long-term recovery funds are distributed and targeted and how equitably the impacted area recovers. Despite its importance, “unmet need” is ill-defined and often determined with unreliable data.

After Hurricane Harvey, grantees were charged with determining how CDBG-DR funds would be distributed, using a HUD methodology and FEMA IA data to quantify the housing impact of the storm. Using FEMA personal property loss data as a proxy of unmet need underestimates the damage to rental housing, particularly in lower-income areas where there are lower values of personal property per household. After these funds were distributed to the regional Councils of Governments (COG’s), an additional formula was used to distribute the funds locally. Outside the Houston metropolitan area, the COG only used storm severity as an indicator of need, failing to utilize any data on its impact at all. As a result, the lowest-income areas, including African

<sup>9</sup> *Experiences of Vulnerable Populations During Disaster: U.S. House Committee on Transportation and Infrastructure*. (2020). (Testimony of Diane Yentel). Retrieved from:

[https://nlihc.org/sites/default/files/Testimony\\_TI-Hearing\\_Needs-of-Lowest-Income-Survivors\\_07282020\\_Final.pdf](https://nlihc.org/sites/default/files/Testimony_TI-Hearing_Needs-of-Lowest-Income-Survivors_07282020_Final.pdf)

<sup>10</sup> Hersher, R., Chatterjee, R., & Lu, Thomas. (2021). FEMA has an equity problem, part two: Race. *NPR*. Retrieved from: <https://www.npr.org/2021/07/06/1013368206/fema-has-an-equity-problem-part-two-race>

<sup>11</sup> Dreier, H. (2021). Assistance not approved. *Washington Post*. Retrieved from: <https://www.washingtonpost.com/nation/2021/04/25/fema-disaster-assistance-denied/>

American communities like Port Arthur and Northeast Houston, were provided fewer resources, compounding challenges already faced by these underinvested and segregated communities. Damage assessments and funding awards based on property value steer funding to higher-income and white communities, increasing the racial wealth gap.<sup>12</sup> After successive disasters between 1999 and 2013 in Houston, for example, the black-white wealth gap in the city increased by \$87,000.<sup>13</sup>

### *Reinforcing Racial Segregation*

Research has shown that race and income often determine the neighborhoods in which we live, and where we live influences everything from education and health outcomes to economic mobility and opportunity. Housing segregation did not happen by accident, but rather through intentional public policy. Because federal disaster recovery efforts seek to restore communities back to the pre-disaster “normal,” these efforts often work to restore racial inequality and the legacy of Jim Crow segregation rather than dismantling these systems.

Under the CDBG-DR program, state and local governments certify that funds will be administered in conformity with federal civil rights laws, including the Fair Housing Act and the requirement therein to use federal funds to “affirmatively further fair housing.” Five federal agencies have produced an official guide, detailing how state and local governments should comply with federal civil rights laws when engaging in emergency preparedness, response, mitigation, and recovery activities.<sup>14</sup> Despite these legal requirements, however, communities are too often reconstructed along the same unequal lines as before the disaster. While disasters are tragic, they present a unique opportunity to dismantle racial segregation. After disasters, communities may receive significant funds for community rebuilding aimed at helping disaster survivors with modest incomes and the greatest needs.

Communities of color often have less access to basic services, such as hospitals, banks, grocery stores, social services offices, and fire departments, which stunts economic growth and prosperity and makes community members less able to prepare for disasters and participate equally in recovery.

Communities of color are often located in areas with greater risk of disasters. Research has shown that lower-income communities are often located in affordable, but low-lying areas susceptible to flooding. Compounding this vulnerability is the fact that many communities of

<sup>12</sup> Rosales, C. (2018). Texas Housers calls on state to amend Harvey recovery action plan to be more equitable and inclusive. Retrieved from: <https://texashousers.org/2018/05/03/texas-housers-calls-on-state-to-amend-harvey-recovery-action-plan-to-be-more-equitable-and-inclusive/>

<sup>13</sup> Howell, J., & Elliott, J.R. (2018). Damages done: The longitudinal impact of natural hazards on wealth inequality in the United States. *Social Problems*, Oxford University Press. Retrieved from: <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spy016/5074453>

<sup>14</sup> U.S. Department of Justice. (2016). Guidance to state and local governments and other federally assisted recipients engaged in emergency preparedness, response, mitigation, and recovery activities on compliance with Title VI of the Civil Rights Act of 1964. Retrieved from: <https://www.justice.gov/crt/fcs/EmergenciesGuidance>

color have historically been denied adequate infrastructure due to systemic discrimination.<sup>15</sup> As a result, low-income people, often low-income people of color, endure disproportionate flooding compared with their affluent neighbors.

When recovery occurs, therefore, communities of color either return to their segregated “normal” or the residents flee to other areas, often destroying centuries of familial and social ties and what precious generational investments the residents have. State and local governments can prevent such results by making investments in infrastructure and community development and enacting civil rights protections to create communities less afflicted by the direct legacies of Jim Crow laws and racial segregation.

It is critical for disaster recovery planning to go hand-in-hand with fair housing planning, so it considers the disproportionate impact of racism on low-income affordable housing residents and the communities that have been historically relegated to environmentally hazardous areas.<sup>16</sup>

### *Inequitable Infrastructure*

Due to a combination of segregation, exclusionary zoning, and disinvestment in infrastructure for economically depressed communities and communities of color, 450,000 of the nation’s affordable homes are located in flood-prone areas.<sup>17</sup> Federally assisted affordable housing continues to be located in at-risk areas, forcing the lowest-income households in areas with the highest risk of disasters. Not only does this pattern needlessly place people in harm’s way, but it ensures that more federal dollars are needed to repair and reconstruct homes and fund emergency services.

The location of federally assisted affordable housing also shows a higher natural hazard risk than market rate housing. A recent report by NLIHC and the Public and Affordable Housing Research Corporation (PAHRC) found that nearly one-third of federally assisted housing stock is located in areas with very high or relatively high risk of negative impacts from natural hazards compared to one-quarter of all renter occupied homes and 14% of owner occupied homes.<sup>18</sup> The households residing in these higher-risk units are predominantly people of color, with the Public Housing program having the largest share of units (40%) in areas of very high or relatively high risk of natural hazards.

Affordable housing is frequently surrounded by underfunded infrastructure that exacerbates the impact of disasters. In Houston, 88% of the city’s open-ditch sewage system lies in historically

<sup>15</sup> Fahy, B., Brenneman, E., Chang, H., & Shandas, V. (2019). Spatial analysis of urban flooding and extreme heat hazard potential in Portland, OR. *International Journal of Disaster Risk Reduction*, 101-117. doi:10.1016/j.ijdrr.2019.101117

<sup>16</sup> Ortiz, G., Schultheis, H., Novack, V., & Holt, A. (2019). A perfect storm: Extreme weather as an affordable housing crisis multiplier. Center for American Progress. Retrieved from: <https://www.americanprogress.org/issues/green/reports/2019/08/01/473067/a-perfect-storm-2/>

<sup>17</sup> Mervosh, S. (2019). Unsafe to stay, unable to go: Half a million face flooding risk in government homes. *New York Times*. Retrieved from: <https://www.nytimes.com/2019/04/11/us/houston-flooding.html>

<sup>18</sup> National Low Income Housing Coalition & the Public and Affordable Housing Research Corporation. (2021). *Taking Stock: Natural Hazards and Federally Assisted Housing*. Retrieved from: <https://preservationdatabase.org/wp-content/uploads/2021/06/Taking-Stock.pdf>

black neighborhoods. During Hurricane Harvey, the open ditches overflowed, spreading sewage waste into streets and homes. Similar events occurred in North Carolina and Puerto Rico, where the lowest-income individuals often live in areas at high risk of environmental damage or flooding during disasters.

As the climate continues to change, disasters will be both stronger and more frequent. In response, local and state officials have begun to focus on mitigation and infrastructure improvement. Too often, such upgrades go to more affluent communities, while the needs of lower-income people and people of color are ignored. State and local governments will often endeavor only to meet the minimum program requirements. As a result, current long-term recovery efforts often exacerbate societal inequities. This can be best illustrated by the recent allocation of CDBG-MIT funding in Texas, where the Texas Government Land Office (GLO) allocated almost half of the state's CDBG-MIT funding to areas that experienced little to no impacts of recent disasters.<sup>19</sup> This lack of targeting means that CDBG-DR/MIT allocations can often fall victim to political pressures, as opposed to being directed where it is needed most.

For example, in the Rio Grande Valley along the Texas-Mexico border, informal settlements called "Colonias" lack public services, including drainage and sanitation services. Following Hurricane Dolly in 2008, many Colonia residents lost their homes to flooding, and county officials had to send trucks to pump water out of the neighborhoods. During the recovery process, however, local and regional officials attempted to direct funding to large regional drainage projects that would ensure faster flood drainage in wealthier areas that already had up-to-date infrastructure rather than in the Colonias. (Ultimately, the diversion of funds was prevented.)

The Rio Grande Valley is not an isolated case of infrastructure inequality. New Orleans, Miami and other cities have ignored the infrastructure needs of lower-income, non-white neighborhoods, disproportionately affecting those who have the hardest time recovering after a disaster. Repeated investment in white, affluent neighborhoods and underinvestment in low-income communities of color have a dire result: two communities – separate and unequal – one that will recover from the next season's storm and one that will not.

#### *Increased Displacement*

Black, Latino, and immigrant communities face increased disaster-caused displacement from the dual threats of disinvestment and speculation, which build on the wealth disparities resulting from decades of intentional public policy to provide different resources and opportunities based on race. In Houston, redlining and city planning rooted in segregationist principles have increased flooding threats to communities of color by concentrating segregated neighborhoods into areas with outdated infrastructure unable to handle flooding events like Hurricane Harvey.<sup>20</sup>

<sup>19</sup> <https://www.reformaustin.org/disasters/texas-housers-file-civil-rights-complaint-against-glo/>

<sup>20</sup> ...decline didn't only come from the denial of lending and investment in those neighborhoods. It also happened because the models recognized in "good" neighborhoods—those "large lots," for example—are what ended up making the city even more prone to flooding. Besides the city's faulty storm water management, Houston also suffers regularly from urban flooding due to the copious levels of parking lots and impervious surfaces paved over the city. So, what was "good" and profitable for sprawl and the suburbs is what also increased the vulnerability of these redlined neighborhoods, making their designation as "hazardous" somewhat of a self-sealing premise." Mock,

In Miami, speculative markets have begun adjusting to rising seas and the increasing frequency of hurricanes,<sup>21</sup> much to the detriment of low-income communities of color.<sup>22</sup> For decades, development and wealth have been concentrated on the coast in Miami and surrounding areas, while Black communities were pushed inland by segregation and redlining; now, these same communities face displacement as inland areas increase in value.

Recovery investments, and the lack thereof, can also drive displacement. Because federal disaster recovery efforts fail to address the barriers faced by low-income communities and communities of color, many survivors are not able to fully recover. When survivors are unable to rebuild their homes or find affordable rental housing, they may face displacement.

Moreover, recovery programs themselves may also actively contribute to displacement. In Puerto Rico, advocates have warned that CDBG-DR-funded recovery programs offer few flood mitigation options, denying survivors the ability to rebuild resiliently in flood zones. Because a large portion of the island is now considered a flood zone, this policy may lead to widespread displacement among the poorest communities on the island. In Southern Texas, aggressive floodplain management has meant that many Hurricane Harvey survivors are ineligible for funds needed to repair their homes. Residents are forced to decide whether to stay and save enough to rebuild and protect their homes from flooding, or to leave for other areas.

#### *Barriers to Access*

##### Language barriers

Language access to federal- or state-funded programs is required under civil rights laws.<sup>23</sup> While regulations and HUD allocation notices are only provided in English, the documents that create and implement disaster response and recovery programs must be published in all languages spoken by significant numbers of residents in impacted communities. Despite this requirement, CDBG-DR grantees have consistently failed to assess the primary languages of impacted communities and have failed to provide translations of critical materials. Applicant-intake offices have often lack staff translators. Even when materials are translated, they sometimes provide incorrect information, such as application deadlines.

The Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964, released in 2016, makes it clear that federal language

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B. (2017). Zoned for displacement. *CityLab*. Retrieved from: <https://www.citylab.com/equity/2017/09/climate-changesinevitable-displacement-of-most-vulnerable/539232/>

<sup>21</sup> The combined impacts of sea level rise and storm surge in the Southeast have the potential to cost up to \$60 billion each year in 2050 and up to \$99 billion in 2090 under a higher scenario (RCP8.5). The U.S. Global Change Research Program (USGCRP). (2018). *Impacts, Risks, and Adaptations in the United States: Fourth National Climate Assessment, Volume II*. Retrieved from: <https://nca2018.globalchange.gov/chapter/front-matter-about/>

<sup>22</sup> Ariza, M. (2018). As climate change hits Miami, only the rich will be able to protect themselves. *HuffPost*. Retrieved from: [https://www.huffpost.com/entry/climate-change-gentrification-miamidisplacement\\_n\\_5c13730ce4b0f60cfa27e471](https://www.huffpost.com/entry/climate-change-gentrification-miamidisplacement_n_5c13730ce4b0f60cfa27e471)

<sup>23</sup> 42 U.S.C. §2000d and 24 C.F.R. § 1.4



access requirements apply to disaster recovery activities.<sup>24</sup> Practices have yet to fully take into account these requirements, however. For example, in a particularly egregious recent episode, housing policies for a major recovery program in Puerto Rico aimed at homeowners were released only in English, and then translated into Spanish only after advocates complained.

#### Discrimination Against Individuals with Disabilities

People with disabilities need physical access, program access, and effective communication access but such access is not consistently provided, leaving these survivors' long-term recovery needs overlooked. If a community has no accessible housing, people with disabilities must remain in shelters until there is accessible housing available. Parents of children with disabilities that are unable to return to a school with disability resources are forced to care for their children instead of working, remaining dependent on public systems. Full recovery cannot occur until everyone, including those with disabilities, are in accessible homes and back at work or school.

The specific characteristics of a disability and the impacts on a disaster survivor are often fluid. The effects of a natural disaster can be intensified not only by specifics of a disability, but also by other forms of societal inequality and marginalization, such as race, class, gender, sexual identity, and legal status. Some disabilities can also be temporary or changing, especially during the stress and connected health risks that accompany a disaster. Disability-disaster response requires understanding the many kinds of disabilities and societal inequities.<sup>25</sup>

#### Fair Housing Violations

Federal statute, regulation and HUD Federal Register notices require that activities and programs funded through the Community Development Act of 1964 operate in ways that "affirmatively further fair housing." HUD CDBG-DR Federal Register notices have specifically required that the grantee "certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard."<sup>26</sup>

HUD has underenforced these laws for decades. This same neglect has carried through to HUD approval of CDBG-DR state action plans that have been blind to impacts on housing access, housing availability, mobility, and racial, ethnic, and economic integration. The current top-down, non-participatory nature of CDBG-DR action plan development allows HUD and grantees to ignore fair housing considerations.

HUD often approves CDBG-DR action plans that have violations of civil rights law built into their structure. Plans have been approved that provide assistance to homeowners based upon

<sup>24</sup> U.S. Department of Justice. (2016). Guidance to state and local governments and other federally assisted recipients engaged in emergency preparedness, response, mitigation, and recovery activities on compliance with Title VI of the Civil Rights Act of 1964. Retrieved from: <https://www.justice.gov/crt/fcs/EmergenciesGuidance>

<sup>25</sup> Perry, D. (2017). Disability and disaster response in the age of climate change. *Pacific Standard*. Retrieved from: <https://psmag.com/environment/fixing-americas-disability-disaster-response/>

<sup>26</sup> (71 Fed. Reg. 7666, 7671, Feb. 13, 2006, Katrina) (78 Fed. Reg. 14329, 14347, March 5, 2013 Sandy).

discriminatory property values, that underassess the number of renters affected by a disaster, or that favor homeowners. HUD has the authority to reject CDBG-DR action plans that do not provide for implementation of civil rights protections.<sup>27</sup> Yet HUD has repeatedly failed to exercise such authority, relying instead on certifications rather than the actual language and substance of the grantee draft plans.<sup>28</sup>

Moreover, local and state governments involved in disaster recovery often have very little experience administering recovery programs fairly. Historically, HUD has provided little training on fair housing responsibilities or monitoring to ensure fair housing requirements are met, even though such requirements apply to recovery programs. As a result, it has been the job of advocates already overburdened with assisting disaster-stricken communities to attempt to enforce fair housing laws and hold HUD accountable. The largest ever federal fair housing settlement came about through a complaint brought by Fair Share Housing Center, the New Jersey Latino Action Network, and the New Jersey State Conference of the NAACP, creating a more than half-billion-dollar program to rebuild or replace approximately 7,000 affordable rental homes impacted by Superstorm Sandy, which disproportionately impacted Black and Latino communities in New Jersey. Advocates after Hurricanes Katrina, Ike, and Dolly have also achieved major fair housing victories. Relying on local advocates to ensure compliance with federal protections rather than clear rules enforced by HUD, however, assumes that resources exist for prolonged legal battles, and if such battles are carried out, they further delay the recovery process while they are litigated.

### **Impact on the Housing Crisis**

According to NLIHC's annual report, *The Gap: A Shortage of Affordable Rental Homes*, there is shortage of 7 million affordable and available rental homes in the U.S. for households with the lowest incomes.<sup>29</sup> In certain metropolitan areas, the supply of affordable, available rental housing can be as low as 1 home for every 10 extremely low-income renter households. When a disaster exacerbates the already severe shortage of affordable rental homes, the consequences can be devastating for the lowest-income survivors, putting them at risk of displacement, evictions, and, in worst cases, homelessness.

Rental prices often increase dramatically after a major disaster. This rise has been attributed to a combination of the rapid loss in available housing stock due to the disaster, as well as a simultaneous increase in demand for rental housing for households seeking temporary shelter as their damaged or destroyed homes are replaced. For example, some ZIP codes in the Houston area saw rent increases of 50% after Hurricane Harvey. These rapid increases in rent can rapidly displace low-income households. The 2018 California wildfires destroyed a large amount of northern California's housing stock – 14% of Butte County California's housing supply was destroyed by the Camp Fire alone. As a result, rents have increased rapidly in areas already

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<sup>27</sup> (24 C.F.R. § 91.500)

<sup>28</sup> (24 CFR § 91.225)

<sup>29</sup> National Low Income Housing Coalition. (2021). *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. Retrieved from: <https://nlihc.org/gap>

experiencing an affordable housing crisis. Reports of rents doubling or tripling after an area wildfire resulted in emergency ordinances being passed limiting increases to just 10%.<sup>30</sup>

The increased cost of rental housing is also sometimes attributed to price gouging by landlords seeking to take advantage of the immediate increase in demand. Advocates report landlords evicting tenants without cause to make room for new tenants willing to pay much higher rents. Such practices lead to further destabilization and displacement.

Affordable and accessible homes are often the most vulnerable to disasters, but they are less likely to be rebuilt after the disaster strikes. When naturally occurring rental housing stock is damaged, the cost to repair and rehabilitate the property leads to higher rents. The slow pace and complications of federal disaster recovery efforts often mean that federally assisted affordable housing is rebuilt many years after a disaster, if at all.

In the aftermath of disasters, the failure of communities to rebuild without taking into account their ongoing obligations to construct accessible housing and public buildings in accord with civil rights law leaves many people with disabilities more isolated than before.

### **Lack of Community Feedback and Participation**

#### *Limited Opportunities for Public Input in State Action Plans*

CDBG-DR grantees often effectively limit the opportunities for impacted residents to contribute their local needs and knowledge to the state action plans. Due to substantial bureaucratic delays, state officials are under enormous pressure to release action plans as quickly as possible, often making any public input process rushed and ineffective. Grantees have failed to provide adequate notice of the draft action plan's publication, failed to properly announce public meetings, and provided the draft or related documents only in English. HUD has historically waived standard CDBG participation requirements, which include a public hearing and a 30-day comment period and allowed comment periods of as short as one week. While grantees suggest these efforts are aimed at releasing funds more quickly, most delays in the disaster allocation process occur well before an action plan's public comment period. Without public comment, the action plan becomes a tool for those with political or economic power.

Often, the action plans themselves include little information about how the CDBG-DR funds will be spent, with HUD allowing states to fill in spending details over time with regional Methods of Distribution and local program and project selections. Interested members of the public must follow a long process to keep track of the evolving plan, with only limited and sporadic opportunities for public comment.

#### *Failure to Provide Survivors with the Choice to Rebuild or Relocate*

Decisions about the future use of land in flood plains or other at-risk areas, including the relocation of residents, have been made by CDBG-DR grantees without input from residents

<sup>30</sup> Phillips, A. M. (2018). 'Where do people go?': Camp fire makes California's housing crisis worse. *Los Angeles Times*. Retrieved from: <https://www.latimes.com/local/lanow/la-me-paradise-housing-shortage-20181123-story.html>



directly impacted by those decisions. As a result, policies have ranged from one extreme to another. In New Jersey residents generally could not get funding to leave flood-prone areas, while in Puerto Rico, any home with substantial damage in the floodplain is currently not permitted to receive CDBG-DR assistance for rebuilding, potentially displacing tens of thousands of low-income residents. These policies commonly lack any opportunity for residents to have a say in whether to stay and make their communities more resilient or to relocate. At the same time, private developers in Puerto Rico may be able to use federal Opportunity Zone tax breaks to build in the same flood zones that low-income survivors will be forced to leave, raising important questions about who is served by the recovery system. Government officials have ignored calls by advocates for deed restrictions barring redevelopment on properties acquired through the island's relocation program and for mitigation to be an option before relocation.<sup>31</sup>

Funding for buyouts has historically been based on property values, giving wealthier families a realistic opportunity to relocate but forcing low-income families to choose between flood risk and relocating with payments insufficient to obtain housing in safer areas. HUD has taken an important step by allowing buyout incentives to be paid for with federal funds, but the resulting programs are difficult to coordinate, making it likely that some neighborhoods will receive adequate funding to move while others receive only minimal funding insufficient to cover the costs of relocation.

#### *Inaccurate Data*

HUD has a policy to use the “best available data” when developing the needs assessment used by CDBG-DR grantees to develop their draft action plans, but these data are often inaccurate. There is an overreliance on data from FEMA that systematically undercount renters, exclude people denied FEMA benefits, and do not account for the full extent of damage to public and assisted housing or the cost to rebuild resiliently. Despite these concerns, CDBG-DR grantees have frequently resisted consultation with residents and advocates who attempt to correct such data, and HUD has not created a needs-assessment formula that accounts for inaccurate data. Without such corrections, action plans continue to underestimate the needs of the most vulnerable survivors.

#### *Lack of Data Transparency*

It is often difficult and sometimes impossible for the public and community groups to access the data on which a State action plan was created. After Hurricane Katrina, advocates spent years trying to get clear answers to basic questions about funding and programs in low-income communities. In New Jersey, advocates had no choice but to file a lawsuit in order to access public records showing what data were used by the state as the basis of its disaster recovery plan.

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<sup>31</sup> Brown, A. (2019). Weathering the storm: Two years after Maria, relief funds promise displacement for the hardest-hit Puerto Ricans. *The Intercept*. Retrieved from: <https://theintercept.com/2019/09/22/puerto-rico-hurricane-maria-disaster-relief/>

## Local Contractors and Workers Left Behind

### *Limited Attention to Worker Health and Safety*

Natural disasters create physical conditions – including raw sewage in the streets and mold, ash, and toxic chemicals in homes and yards – that are harmful to human health. Professional first responders almost always have training and equipment for these conditions. Laborers, contractors, and volunteers, however, are likely to have neither, and there has often been little oversight of the impact on workers in the recovery process.

### *Overreliance on Outsourcing Contracts*

Because of the extraordinary challenges faced by local governments during the recovery, CDBG-DR grantees rely on out-of-state contractors that specialize in certain aspects of recovery. There is often no connection between the contractor and the community recovering from a disaster and, as a result, there is little incentive for contractors to follow local practices and standards.

Time after time, contractors who were dismissed or even sued by prior CDBG-DR grantees apply for and are awarded contracts in subsequent events because the grantees could not find or did not trust local companies. In Puerto Rico, four companies have been awarded multimillion-dollar contracts to administer recovery programs, including ones with staff under investigation by the FBI for corruption and others previously fined for failing to meet recovery goals. At the same time, because Puerto Rico is using a reimbursement-based model, very few small, local construction companies have the resources they would need to participate in recovery efforts.<sup>32</sup>

### *Missed Opportunities for Local Job Creation*

Section 3 of the Housing and Urban Development Act of 1968 strives to direct federally funded employment, training opportunities, and contracts to low- and very low-income people, as well as local minority-controlled businesses.<sup>33</sup> The effect of the provisions is very limited, however, because grantees, sub-grantees, and contractors are only required to use their “best efforts” to comply. Further, the grantee can exempt projects or contracts below a certain size or cost. Entities purportedly subject to Section 3 almost always simply submit an annual statement to HUD stating they have done their best with very limited results. Disaster recovery brings large amounts of funding into communities struggling with unexpected job losses; there is a significant missed opportunity in not more stringently enforcing Section 3 or other local-hire requirements.

<sup>32</sup>Brown, A. (2019). Weathering the storm: Two years after Maria, relief funds promise displacement for the hardest-hit Puerto Ricans. *The Intercept*. Retrieved from: <https://theintercept.com/2019/09/22/puerto-rico-hurricane-maria-disaster-relief/>

<sup>33</sup> 12 U.S.C. § 1701u; 42 U.S.C. § 1437 c, g and l

### III. Solutions for an Equitable Housing Recovery

#### Rebuilding Equitable Communities

##### *Dismantling Segregation and Inequity*

The issues of segregation and inequality intertwine with disaster recovery. Low-income communities and communities of color are often forced to live in disinvested areas without sufficient infrastructure to protect against disasters.<sup>34</sup> These communities are often located on land susceptible to natural hazards, unlike white and wealthier communities. While communities of color are over-policed, other basic infrastructure and services, such as hospitals, banks, and grocery stores, may not be available.<sup>35</sup> As a result, these communities are more likely to suffer damage due to disaster and take longer to recover afterward. Moreover, current disaster housing recovery efforts often focus on rebuilding communities, without efforts to undo the racial segregation and inequalities that existed prior to the disaster. Dismantling segregation and inequality must be an explicit goal of long-term disaster recovery efforts. Any effort to help long-term communities rebuild must actively work to end racial segregation and discrimination.

Current long-term recovery efforts often exacerbate societal inequities. Low-income people, people of color, people with disabilities, and immigrants face increased disaster-caused displacement from the dual threats of disinvestment and speculation, which exacerbate the disparities created by segregation and inequality.<sup>36</sup> During disaster recovery, communities of color and other marginalized communities either return to their segregated “normal” or the residents are displaced to other areas, often destroying familial and social ties. It is critical for disaster recovery planning to go hand-in-hand with fair housing compliance so that rebuilding efforts explicitly acknowledge and address the impact of racism, segregation, and inequality. Case management services and housing counselors can support displaced households that wish to relocate into neighborhoods of their choice, including neighborhoods connected to resources, good-paying jobs, good-performing schools, and other benefits. These services can provide assistance in finding available housing and in moving.

Local organizations serving marginalized communities must be involved in long-term recovery efforts to ensure that recovery programs recognize and address the needs of these communities. This involvement does not just pertain to the accessibility of programs, but also to decisions on rebuilding and reconstruction. Construction of new housing must be sited in a manner that decreases segregation and protects against harm by future disasters. This should not only apply to rebuilding homes but also to infrastructure and community development efforts, allowing communities themselves to direct how best to fight inequality and segregation.

<sup>34</sup> Cooper, J. T., & Hicks, J. (2017). How black history has influenced disaster planning. Center for Disaster Philanthropy. Retrieved from: <https://bit.ly/3ec5qD3>

<sup>35</sup> Rothstein, R. (2017). *The Color of Law: A Forgotten History of How Our Government Segregated America*. First edition. New York: Liveright Publishing Corporation.

<sup>36</sup> Frazee, G. (2019). How natural disasters can increase inequality. *PBS NewsHour*. Retrieved from: <https://to.pbs.org/3fwmsu>

Given the widespread nature of segregation and inequality in the U.S., it is not enough to state the equitable intent of a disaster recovery program. Explicit requirements for desegregation and adherence to civil rights law must be included in both contractor regulations and agreements with states, local governments, and federal agencies. Making equity explicit strengthens the ability of protected classes to seek legal redress at times when recovery is less than equitable. Federal law should require compliance.

#### *Desegregating Infrastructure*

Federal, state, and local governments have underinvested in the infrastructure of marginalized communities for decades.<sup>37</sup> This lack of infrastructure compounds the negative impact of disasters, damaging more housing and displacing more residents. Houston, Texas has perhaps the most noticeably segregated infrastructure, with 88% of the city's open drainage system – trenches on the side of the road – located in communities of color. These ditches become clogged and flood easily during major storms like Hurricane Harvey, exacerbating damage to homes. Despite this recurring problem, state and local government continues to divert infrastructure resources away from poorer communities of color toward higher-income, white communities. Infrastructure projects should be prioritized to improve and protect lower-income communities, communities of color and people with disabilities, and to compensate for the lack of effective infrastructure. All communities should have at least the minimum amount of infrastructure needed to protect residents.

#### *Accessible Housing*

The housing recovery needs of individuals with disabilities are commonly ignored or overlooked. In the context of long-term recovery, this often means that homes are built or repaired without ensuring that the homes are accessible.<sup>38</sup> If a community has no accessible housing, people with disabilities must remain in shelters until accessible housing is available. Parents of children with disabilities who are unable to return to a school with disability resources are forced to care for their children instead of working. Homes created or substantially rebuilt through the long-term recovery process must be made accessible to individuals with disabilities in accordance with applicable disability rights law. This ensures that the disaster recovery will fully include everyone.

#### *Faith-Compatible Disaster Resources*

Disaster recovery planners at all levels should be aware of how long-term recovery activities may impact individuals of different faiths. For instance, federal agencies and other entities providing recovery loans must provide loans that are compatible with Islamic law, which dictates acceptable interest rates. This not only encourages greater participation in the recovery process

<sup>37</sup> Sanchez, T. W., Stolz, R., & Ma, J. S. (2003). *Moving to Equity: Addressing Inequitable Effects of Transportation Policies on Minorities*. Cambridge, MA: The Civil Rights Project at Harvard University. Retrieved from: <https://www.civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf>

<sup>38</sup> U.S. Government Accountability Office (GAO). (2019). FEMA action needed to better support individuals who are older or have disabilities. Retrieved from: <https://www.gao.gov/assets/700/699539.pdf>

by these religious communities, but also ensures that all low-income survivors can access assistance regardless of their religion.

By working with local organizations to follow these guidelines, disaster recovery can become a desegregating, equality-increasing process that can mitigate generational barriers erected by white supremacy, ableism, and economic inequality.

## **Rebuilding Homes**

### *Equitable Approaches to Rebuilding Homes*

An underlying cause of our nation's affordable housing crisis is the shortage of homes affordable and available to America's poorest seniors, people with disabilities, families with children, and other individuals. According to the NLIHC's The Gap Report, there is a national shortage of 7 million rental homes affordable and available to the nation's 11 million extremely low-income renter households. Fewer than 4 affordable and available rental homes exist for every 10 extremely low-income renter households nationwide. As a result, eight million of America's poorest households pay at least half of their incomes on rent, forcing them to make impossible choices between paying rent and buying healthy food or needed medication.<sup>39</sup>

Because of the growing affordable housing crisis, America's lowest-income households are put in danger of homelessness and displacement after a disaster as rental housing supply is lost. This was seen most glaringly in the aftermath of California's destructive wildfires, when 16% of Butte County's housing stock was destroyed in the 2017 Camp Fire, raising the numbers of individuals experiencing homelessness in the area and driving residents away from Northern California.<sup>40</sup>

This severe shortage of homes affordable to the lowest-income people is due to a market failure; the private sector cannot, on its own, build and maintain rental homes affordable to people with the lowest incomes without federal investments in programs targeted to serve this population. For this reason, long-term housing recovery programs should first prioritize the housing needs of people with the lowest incomes, including those individuals who have been displaced or involuntarily institutionalized. Congress should provide special allocations of funding targeted to serve the lowest-income people, including the national Housing Trust Fund, Disaster Housing Assistance Program (DHAP) vouchers, and funds to repair damaged public housing stock, among others. Disaster recovery efforts must prioritize the one-for-one replacement of any damaged or destroyed federally assisted housing, ensure a minimum affordability period of 30 years, and target resources as much as possible to address the underlying market failure.

Rebuilding housing markets as they were prior to a disaster without addressing the underlying market failure means that disaster recovery efforts will only rebuild our nation's housing crisis.

<sup>39</sup> National Low Income Housing Coalition. (2021). *The Gap: A Shortage of Affordable Homes*. Washington, DC: Author. Retrieved from: <https://nlihc.org/gap>

<sup>40</sup> Von Kaenel, C. (2019). Butte County snapshot of homelessness shows increase from Camp Fire. *Chico Enterprise-Record*. Retrieved from: <https://www.chicoer.com/2019/06/18/butte-county-snapshot-of-homelessness-shows-increase-from-camp-fire/>

By focusing housing recovery efforts on the creation of rental homes affordable to the lowest-income households, we can not only help ensure that disaster survivors can become stably housed, but we can help end housing poverty for generations to come.

Low-income homeowners and people experiencing homelessness must be served as well. Homeownership, especially within communities of color, can be a major source of generational wealth for a family.<sup>41</sup> Due to this, efforts must be made to preserve that wealth and ensure future generations are able to benefit from it. As discussed earlier, individuals who were experiencing homelessness prior to a disaster often receive no recovery assistance at a time when most homeless service organizations are overwhelmed with newly housing-unstable households. In order for a recovery to be equitable, the needs of homeowners, renters, and people experiencing homelessness must be addressed.

New affordable housing must be able to meet the challenges of the next disaster. Housing rehabilitation, rebuilding, and new construction, as well as related infrastructure projects, must meet resilience and mitigation standards to withstand the increasing frequency and intensity of disasters due to climate change. Not only does this conserve valuable recovery funding, but it also reduces displacement of low-income disaster survivors during the next disaster and ensures that the desegregation efforts of long-term recovery efforts become permanent.

Ensuring that housing can meet the challenges of future disasters also depends on where it is built. Because of segregation and inequality, affordable housing units are more likely to be found in floodplains and other areas susceptible to damage from disasters. To break that cycle, a significant amount of newly constructed housing must be located outside of areas susceptible to disaster damage and be made available first to households displaced by the disaster.

#### *Ensuring Continuity for Housing Assistance Programs*

Many federal agencies have disaster recovery programs. The complexity and overlapping nature of these programs can make it difficult to ensure continuity for disaster survivors as they navigate these programs. Under the current disaster housing recovery framework, a substantial lag exists between when FEMA disaster assistance programs end and when HUD's long-term recovery programs begin.<sup>42</sup> This problem has been exacerbated in recent years under the Trump administration, as FEMA prematurely ended disaster housing programs, including its Transitional Shelter Assistance (TSA) motel program for Puerto Rican survivors well before the statutory deadline. This gap in housing assistance results in further displacement and homelessness. The gravity of this toll on the emotional and financial health of low-income disaster survivors cannot be overstated.

<sup>41</sup> Herbert, C., McCue, D. T., & Sanchez-Moyano, R. (2013). Is homeownership still an effective means of building wealth for low-income and minority households? (Was it ever?). Harvard University. Retrieved from: <https://www.jchs.harvard.edu/sites/default/files/hbtl-06.pdf>

<sup>42</sup> Leicht, H. (2017). Rebuild the plane now: Recommendations for improving government's approach to disaster recovery and preparedness. Retrieved from: <https://communityp.com/wp-content/uploads/2017/07/IMPROVING-DISASTER-RECOVERY-PAPER-FINAL.pdf>



DHRC member LatinoJustice PRLDEF filed a lawsuit challenging FEMA's decision to end TSA for over a thousand Puerto Rican families left without homes after Hurricane Maria. Although a federal judge denied the request to prevent FEMA from halting assistance, the judge made clear that this was not his preference. He stated that "while this is the result that I am compelled to find, it is not necessarily the right result. However, the Court cannot order that Defendants do that which in a humanitarian and caring world should be done – it can only order the Defendants to do that which the law requires."<sup>43</sup> Changes to law and policy are required to ensure that families are not thrown out of temporary housing with nowhere else to go.

Without access to temporary housing, many low-income disaster survivors are forced into homelessness. A year after Hurricane Harvey, nearly 20% of individuals experiencing homelessness in the city of Houston reported that they became homeless due to the disaster.<sup>44</sup> To prevent this sharp rise in homelessness, disaster housing assistance must be provided to survivors for as long as it is needed, continuously and without a gap in service due to arbitrary deadlines.

Given the agency's expertise in addressing the housing needs of marginalized households, HUD, not FEMA, should operate all disaster housing recovery programs. FEMA has a poor track record of addressing the housing needs of low-income survivors and has demonstrated little interest in improving its programs. Consolidating disaster housing programs into HUD would also streamline efforts, simplify the process for survivors, and result in better outcomes. Disaster survivors are susceptible to trauma, and a lapse of program assistance, even if just for a few days, can cause significant mental harm to households that have already been displaced by a disaster.<sup>45</sup> Should there exist separate short-term and long-term housing assistance programs in the future, better coordination is required to ensure that disaster survivors transitioning from one program to another do not experience a housing disruption in the process.

#### IV. Reforming Disaster Recovery Act

NLIHC and its DHRC support the Reforming Disaster Recovery Act, introduced by Representatives Al Green (D-TX) and Ann Wagner (R-MO) and Senators Brian Schatz (D-HI) and Todd Young (R-IN), as a first start towards ensuring a more equitable disaster recovery.

If enacted, the Reforming Disaster Recovery Act would permanently authorize the CDBG-DR program to provide states and communities with the flexible, long-term recovery resources needed to rebuild affordable housing and infrastructure after a disaster. In doing so, the bill would direct HUD to establish permanent, consistent regulations for CDBG-DR, instead relying on its current case-by-case notice approach. The bill also provides important safeguards and tools to help ensure that federal disaster recovery efforts reach all impacted households, including the

<sup>43</sup> Order on Motion for Preliminary Injunction, Santos v. FEMA et. al., No. 18-40111-TSH (D. Mass. August 30, 2018) at 24. Retrieved from: <https://www.latinjustice.org/sites/default/files/Order%20Denying%20FEMA%20Extension%20-%20Aug%2030.pdf>

<sup>44</sup> Vigh, E. (2019). Hurricane Harvey-caused homelessness lingers in Harris County 2 years later. *Community Impact*. Retrieved from: <https://bit.ly/3hEvKHW>

<sup>45</sup> Babbel, S. (2010). The trauma that arises from natural disasters. *Psychology Today*. Retrieved from: <https://bit.ly/3hyUd1o>

lowest-income seniors, people with disabilities, families with children, people experiencing homelessness, and other individuals who are often hardest-hit by disasters and have the fewest resources to recover.

Permanent authorization of the CDBG-DR program is supported by HUD leadership<sup>46</sup>, HUD's Office of Inspector General (OIG),<sup>47</sup> and the Government Accountability Office (GAO).<sup>48</sup>

### Targeting Resources to Those with the Greatest Needs

While CDBG-DR is often one of the only recovery tools available to the lowest-income disaster survivors, vital resources have been diverted after past disasters from the people and communities with the greatest needs and for whom the program was designed to serve. The Reforming Disaster Recovery Act would help ensure that limited disaster recovery funds reach the most vulnerable survivors.

Key reforms:

- Requiring that federal disaster recovery dollars are equitably distributed, balancing the needs of homeowners, renters, and people experiencing homelessness;
- Requiring that the use of federal recovery funds is balanced between rebuilding infrastructure and housing;
- Requiring that federal recovery dollars replace already scarce affordable housing for low-income residents by prioritizing the one-for-one replacement of damaged or destroyed public or federally subsidized rental housing;
- Maintaining the current requirement that 70 percent of the federal recovery funds benefit low- and moderate-income people and providing clearer direction to HUD on when it can adjust this requirement;
- Providing survivors with a clear appeal process to ensure that all households receive the full amount of assistance for which they are eligible; and
- Requiring opportunities for public input on plans for the use of federal disaster assistance money and ensuring that the plan and comment system are accessible to all.

### Prioritizing Data Transparency & Oversight

After past disasters, the lack of federal data transparency at hampered efforts to effectively target and distribute aid to those most in need. The Reforming Disaster Recovery Act would allow all federal agencies involved to access the full breadth of data needed to make informed public policy decisions, allow greater public participation in disaster recovery efforts, and help public

<sup>46</sup> Secretary Carson testimony, U.S. House Committee on Financial Services, Subcommittee on Oversight and Reform hearing, "Oversight at the Department of Housing and Urban Development", June 27 2018, available at: <https://www.youtube.com/watch?v=w5KQMYJOuEw>

<sup>47</sup> U.S. Department of Housing and Urban Development Office of Inspector General. (2018). "HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program," p. 1. Retrieved from: <https://www.hudoig.gov/sites/default/files/documents/2018-FW-0002.pdf>

<sup>48</sup> U.S. Government Accountability Office (GAO). (2019). Disaster recovery: Better monitoring of block grant funds is needed. Retrieved from: <https://www.gao.gov/products/gao-19-232>



and private entities better recognize gaps in services and identify reforms needed for future disaster recovery efforts.

Key reforms:

- Requiring federal agencies to share all data to help coordinate disaster recovery;
- Requiring HUD to make publicly available all data collected and analyzed during the course of the disaster recovery, including data on damage caused by the disaster, how any federal assistance was spent and information on the disaster's effect on education, transportation capabilities, housing needs, and displacement;
- Requiring states receiving federal recovery dollars to publish contracts and agreements with third parties to carry out disaster recovery efforts;
- Authorizing the release of data to academic institutions to conduct research on the equitable distribution of recovery funds, adherence to civil rights protections, and other disaster recovery-related topics;
- Requiring that the HUD Inspector General review all programs using federal disaster recovery funds to ensure that all grant agreements are followed and all eligible applicants are served; and
- Requiring states to include detailed plans outlining how it will use CDBG-DR funds and how these dollars will address relief, resiliency, long-term recovery, restoration of manufactured housing in the most impacted areas.

### **Protecting Civil Rights and Fair Housing**

The Reforming Disaster Recovery Act would help protect fundamental civil rights and fair housing rights and ensure that all communities and community members – regardless of race, disability, sex, age, color, religion, familial status, national origin, and other protected classes – receive full access to disaster recovery resources, free from discrimination.

Key reforms:

- Requiring states to create a plan to ensure compliance with federal fair housing obligations; and
- Requiring HUD to release information regarding disaster recovery efforts, disaggregated by race, geography and all protected classes of individuals under federal civil rights and nondiscrimination laws, as well as existing disaster assistance laws.

### **Encouraging Mitigation and Resiliency**

With disasters increasing in frequency and intensity, at-risk communities must better prepare housing and infrastructure to withstand future disasters. By promoting mitigation and resiliency, the Reforming Disaster Recovery Act will help ensure that communities are better able to maintain vital services during and directly after a disaster and recover more efficiently.

Key reforms:

- Providing grantees with additional resources for mitigation;

- Requiring rebuilt or substantially repaired structures located in flood areas to meet mitigation standards; and
- Requiring any infrastructure repaired or constructed with federal recovery dollars to have the minimum standard of protection from floods and storm waters.

### **Senate Version**

The Senate version of the Reforming Disaster Recovery Act includes additional reforms to help increase the efficiency, oversight, and effectiveness of the CDBG-DR program.

#### **Key Reforms:**

- Establishing an Office of Disaster Recovery and Resilient Communities at HUD to coordinate with other federal agencies, develop and share best practices, and provide training to state and local agencies on disaster recovery;
- Requiring HUD, FEMA, and SBA to develop a common application form for assistance across federal agencies, streamlining and simplifying the process for survivors;
- Allowing HUD to more quickly allocate funding after a disaster to address the housing needs of people experiencing homelessness or at risk of homelessness;
- Encouraging states to better align federal recovery funding with existing state and local infrastructure investments;
- Allowing funds to be used to provide case management services to help survivors better identify, understand and access federal assistance;
- Requiring HUD, FEMA, and USDA to report to Congress on ways to improve the transition from emergency disaster housing response to long-term housing recovery; and
- Requiring the Government Accountability Office (GAO) to analyze the effectiveness of federal disaster recovery programs in addressing the needs of survivors at different income levels and protected classes and the impact of disasters on the housing crisis.

### **V. Conclusion**

Our country must develop a new disaster housing recovery system that centers the housing needs of the lowest-income and most marginalized survivors, including people of color, people with disabilities, and others. Congress must address our nation's pervasive structural and racial inequities and reform federal disaster rebuilding and mitigation efforts to be inclusive and intersectional. We must reform existing programs by centering racial equity and equity for all historically marginalized people to ensure that affordable housing investments and federal disaster recovery resources reach all impacted households.

Thank you again for the opportunity to testify today. I look forward to your questions.



## CITY OF HOUSTON

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Mayor

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July 13, 2021

The Honorable Al Green, Chairman  
Subcommittee on Oversight & Investigation  
House Committee on Financial Service  
Washington, DC 20515

Dear Members of the House Financial Services Committee:

When members of the U.S. House and Senate approved an aid package in February of 2018 for the region battered by Hurricane Harvey, do you believe they intended for those dollars to be funneled to cities and counties least affected?

Aransas County and Nueces County, coastal counties where Harvey made landfall, received nothing.

Jefferson County, which endured the highest total rainfall? Again, nothing.

The City of Houston and Harris County, which suffered 50 percent of the damage from Hurricane Harvey? The GLO process awarded nothing.

This clown car must be stopped.

If the Texas General Land Office's process granted zero dollars to these localities, the process is demonstrably flawed. The Department of Housing and Urban Development (HUD) clearly defines CDBG-MIT aid as activities that "increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters." These resources are critical to mitigating future loss of life and property in areas affected by one of the worst natural disasters in the history of the United States.

Rather than rectifying this nonsensical result, the GLO has doubled down and is actively misleading the public regarding their flawed process. The GLO initially claimed that their hands were tied by HUD criteria, blaming the Biden Administration. But as members of this committee know, and the press has widely reported, it is the states that exercise wide discretion over distributing these funds.

Furthermore, several projects in small, inland counties received funding despite scoring *lower* than projects in more populous areas on the GLO's own scoring metrics. In fact, a GLO spokeswoman explicitly defended this folly in a statement: "It is important that Texas inland counties are resilient as

Council Members: Amy Peck Jerry Davis Abbie Kamin Carolyn Evans-Shabazz Dave Martin Tiffany D. Thomas Greg Travis Karla Cisneros  
Robert Gallegos Edward Pollard Martha Castex-Tatum Mike Knox David W. Robinson Michael Kubosh Letitia Plummer Sallie Alcorn  
Controller: Chris Brown

they provide vital assistance to our coastal communities during events such as asset staging, evacuations, sheltering, and emergency response/recovery.”

This was news to people in impacted areas, who thought Congress had stepped up and allocated money to invest in devastated communities. It turns out the GLO has turned this Congressional investment into coastal resentment.

With bipartisan outrage from across the Texas political spectrum, the GLO has tried to mitigate the political fallout by retroactively requesting \$750 million for Harris County, further revealing the incoherence of their process.

Under what basis, guideline or criteria did the GLO decide to direct \$750 million to Harris County? The GLO is transparently attempting to salvage their willful display of incompetence by randomly awarding an arbitrary figure to Harris County, while setting the City of Houston adrift.

We, as a country, cannot afford to watch political gamesmanship play out while communities are left unprepared and vulnerable for the next disaster.

These storms will come again. We must invest in mitigation to create more resilient communities now. These funds were intended to safeguard people and federal resources by making localities more able to withstand these future storms. Instead, the GLO has elected to divert federal aid dollars to protect inland counties with small populations to the detriment of large population centers with considerable resilience needs.

The Gulf Coast is a regional and national economic powerhouse. Unfortunately, it is highly vulnerable to future storms and merits protection. The Texas General Land Office has abjectly mishandled their obligation to the U.S. taxpayers. They should be held accountable.

Sincerely,



Sylvester Turner  
Mayor, City of Houston



**STATEMENT TO THE HOUSE SUBCOMMITTEE ON OVERSIGHT AND  
INVESTIGATIONS  
ON BEHALF OF THE COUNCIL OF STATE COMMUNITY DEVELOPMENT  
AGENCIES  
JULY 15, 2021**

On behalf of the Board of Directors and membership of the Council of State Community Development Agencies (COSDA), we respectfully submit the following comments for consideration by the Oversight and Investigations subcommittee of the House Financial Services Committee for the July 15, 2021 hearing, “CDBG Disaster Recovery: States, Cities, and Denials of Funding.”

The Community Development Block Grant – Disaster Recovery (CDBG-DR) program is a key federal resource in facilitating rebuilding and resiliency following severe natural disaster events. State and local governments receive supplemental funds to deliver aid to areas hardest hit by hurricanes, flooding, wildfires, and related impacts. Since the program’s initial appropriations in 1992, a total of \$89 billion has been dedicated to CDBG-DR with \$67 billion in active grants as of April 13, 2021 ([CDBG Disaster Recovery Grant History Report](#)).

States are leading CDBG-DR and CDBG-Mitigation (CDBG-MIT) implementation while ensuring accountability of funds, program compliance, and facilitating aid to projects supporting affected people and places. Unfortunately, challenges have been evident across the nation in program delivery. In examining ongoing issues faced by Texas and corresponding jurisdictions in activating funds, significant and comprehensive updates are necessary to improve facilitation of disaster recovery aid. COSDA urges the subcommittee and Congress to establish

streamlined processes through codification of CDBG-DR and promote access to data across federal government.

Codification would establish CDBG-DR under the U.S. Department of Housing and Urban Development (HUD) and standardize processes involved in program administration. Currently, HUD must develop individual notices with each notice containing different rules and guidance. As a result, directives are inconsistent between allocations proving cumbersome to grantees and related stakeholders. Additionally, funding is delayed from reaching grantees to address on-the-ground needs.

Improved coordination of data among federal agencies would enhance disaster response as well. Access to information particularly between HUD, Federal Emergency Management Agency (FEMA), Small Business Administration (SBA), advances state and local assessments of damage and impacted populations. Better data in the immediate aftermath of disaster means stakeholders can expediently determine how resources can be targeted to inflicted areas and populations. Limited or no information on the other hand prohibits states and localities from adequately engaging on identifying needs, developing plans, and advancing recovery efforts.

CDBG-DR's underlying issues hinder recovery activities in all participating jurisdictions. While examining internal challenges, substantial updates to the program should be pursued. COSCDA welcomes renewed congressional engagement on CDBG-DR and offers its partnership in developing meaningful and responsive legislation.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

PRINCIPAL DEPUTY ASSISTANT SECRETARY  
FOR COMMUNITY PLANNING AND DEVELOPMENT

The Honorable Al Green  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Green:

On behalf of Secretary Marcia L. Fudge, thank you for the Subcommittee's interest in the distribution of federal Community Development Block Grant mitigation (CDBG-MIT) funds. To my understanding, the Subcommittee is specifically interested in the Texas General Land Office (GLO)'s awarding of nearly \$1 billion of CDBG-MIT funding for flood mitigation projects. The Department is pleased to provide this letter for the hearing record.

In the appropriation of CDBG-MIT funds, Congress directed HUD to require grantees to submit an Action Plan that governs the use of the funds. Congress also directed HUD to publish any waivers and alternative requirements necessary to implement this historic level of community-based mitigation funding. On August 30, 2019, HUD published a *Federal Register* notice that establishes the requirements that State and local grantees must follow to access and implement CDBG-MIT funding.

HUD's CDBG-MIT notice requires each grantee to assess the full range of potential risks from future natural disasters when allocating grant funds. The CDBG-MIT notice requires the grantee to expend at least 50% of the grant in the "most impacted and distressed" (MID) area identified by HUD for the disaster that served as the basis for each grantee's earlier CDBG disaster recovery allocation. Grantees may expend the remaining balance of the grant in a MID area that is determined by the grantee. HUD also requires that not less than 50 percent of the CDBG-MIT grant be expended to benefit low- and moderate-income persons and communities. The city of Houston, Harris County, and several other areas were included in HUD-defined MID areas.

Recognizing the unique geographic, demographic, and other factors of each CDBG-MIT grantee and consistent with the principles of the Community Development Block Grant program, HUD provides its CDBG-MIT grantees with considerable flexibility in the assessment of future risks. To ensure on-going coordination with our Federal partners at the Federal Emergency Management Agency, HUD's CDBG-MIT notice requires grantees to use the approved or more recent Hazard Mitigation Plan as the starting point for assessing future risks. Beyond that, CDBG-MIT grantee's assessment of future risk must be based on verifiable sources of data, and HUD does not prohibit grantees from using damage from prior disasters in the assessment of future risks.

In its CDBG-MIT Action Plan, the State of Texas adopts a similar “method of distribution” (MOD) that it has used to provide previous CDBG-DR funding local governments and local jurisdictions. A grantee employing a MOD methodology does not carry projects and programs directly. Instead, the grantee specifies in its Action Plan the criteria that it will use to award funds to other entities, who in turn will carry out the activities on behalf of the grantee.

In the Texas CDBG-MIT Action Plan approved by HUD, the State specified the criteria that it would use to evaluate applications for funding and to separately evaluate applications. One of the State’s criterion is the use of a Benefit-Cost Analysis (BCA) to evaluate applications. HUD does not prohibit the use of a BCA or prescribe how that analysis must be structured. HUD also does not require the use of a BCA for all projects; a BCA is required for very large infrastructure projects with a total cost of at least \$100 million and with at least \$50 million of CDBG-MIT or CDBG-DR funds (i.e., “Covered Projects”).

Since the State’s announcement of awards from the initial CDBG-MIT competition, the State has also publicly indicated its intent to provide an award of \$750 million directly to Harris County, which can include the jurisdictions within the county (e.g., the city of Houston). The State may propose a Substantial Amendment to its CDBG-MIT action plan to make a subaward to Harris County using a portion of the State’s CDBG-MIT funds and provide the county with access to those funds through a subrecipient agreement. In preparing its Amendment, the State must ensure that the amount and purpose of the funding to be reallocated to Harris County and other jurisdictions complies with HUD requirements. This includes both the provisions of HUD’s CDBG-MIT notice and the conditions that HUD established in the Texas CDBG-MIT Grant Agreement.

Under the State’s CDBG-MIT grant agreement, Texas must submit an Action Plan Amendment that identifies all entities that will receive CDBG-MIT subawards and the amount of each subaward. The Amendment must all include data to identify protected classes, racially and ethnically concentrated areas, and concentrated areas of poverty, within the HUD- and State-MID areas “*that were eligible for consideration under the competition*” and provide a meaningful analysis that describes how those newly funded activities may impact those identified populations and areas. The Department has not yet received the State’s Action Plan Amendment.

With regard to the Department’s on-going oversight of the CDBG-MIT grant, HUD has a series of actions ahead. Among them, the Department plans to conduct a monitoring of the State’s implementation of the grant, including its first round of competitive awards. The Department’s Office of Fair Housing and Equal Opportunity will also be reviewing the initial round of CDBG-MIT funding decisions by the State in the context of compliance with Title VI of the 1964 Civil Rights Act in response to a fair housing complaint filed by local stakeholder organizations.



The Department understands the devastation caused by Hurricane Harvey in 2017 and is committed to helping the residents of the city of Houston and Harris County, and elsewhere build back better and enhance their communities. I hope this information is helpful. Please let me know if I can be of further assistance.

Sincerely,

James Arthur Jemison II  
Principal Deputy Assistant Secretary for  
Community Planning and Development

## **Bush says he will ask HUD to send \$750M in flood aid to Harris County following backlash**

Jasper Scherer, Staff writer, Houston Chronicle  
May 26, 2021 Updated: May 27, 2021 8:06 a.m.

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Texas Land Commissioner George P. Bush said Wednesday he would ask the U.S. Department of Housing and Urban Development to directly send Harris County \$750 million in flood mitigation aid related to Hurricane Harvey, days after his agency declined to award the county any money for their proposed projects.

The [snub](#) sparked an intense and immediate [backlash](#) from Houston-area Democrats and Republicans, who demanded that Bush revise the General Land Office's metrics for doling out \$2.1 billion in federal relief for flood projects. The officials noted that Houston bore the brunt of the historic hurricane, yet had failed to secure one cent from the initial \$1 billion round of funding.

In a statement, Bush blamed the situation on federal "red tape requirements and complex regulations" that he described as a "hallmark" of the Biden administration. He said the Land Office, which administers Texas' federal disaster relief, had been delayed in distributing the Harvey funds by the U.S. Housing Department, which did not publish rules regulating the use of the money until two years after Harvey. That happened under the administration of former president Donald Trump.

Bush said he had directed GLO officials to "work around the federal government's regulations" by seeking the direct allocation, though he did not say which regulations had prevented the agency from awarding the money to Harris County itself.

A GLO spokeswoman said the \$750 million, if approved by HUD, would go directly to Harris County. The county could then decide to send some of the money to the city for its own mitigation projects.

Mayor Sylvester Turner said Bush's plan would still leave the city with only a fraction of the \$4.3 billion approved by Congress in 2018 to help Texas prevent future flooding. Turner and other local officials [have long insisted](#) Houston and Harris County should receive roughly half of that amount, which they say would align with their initial share of Texas' housing recovery aid and the proportion of damage taken on by the Houston area during Hurricane Harvey.

“Harris County should receive \$1 billion and the City of Houston should receive \$1 billion,” Turner said. “All Commissioner Bush has to do is amend his state plan to provide that direct allocation to the city of Houston and to Harris County.”

The announcement came one week before Bush is expected to launch a primary challenge to Attorney General Ken Paxton. Bush has yet to confirm his election plans, though he [said on a Dallas radio show](#) last month he is “seriously considering” a bid for AG. One of Bush’s top aides [recently criticized](#) Paxton’s performance in the 2018 election and described the incumbent as a “political dead-man walking.”

Bush has scheduled a campaign launch event June 2 in Austin but has not said which office he will seek.

On Friday, after Turner and County Judge Lina Hidalgo said their funding applications had been sunk by criteria that disadvantaged urban areas, a GLO spokeswoman said the agency was required to use that criteria under guidance from federal officials.

The metrics in question considered a mitigation project’s cost per person helped, and the share of the residents within the entire city or county that could benefit from the project. Under the GLO’s scoring system, nearly half of all points that the city and county’s projects failed to secure came from a category that weighed those two metrics.

Houston officials previously asked the GLO to instead consider the raw number of people who would benefit from a project, warning that the GLO’s preferred criteria would effectively penalize urban areas for their large populations.

A spokesman for the U.S. Department of Housing and Urban Development disputed the Land Office’s account, saying state officials have “full responsibility and jurisdiction over who gets the money.” While HUD must sign off on the GLO’s plan for distributing the funds, there did not appear to be any HUD guidance that required the state to use the criteria opposed by the city and county.

## ‘Not enough’

The GLO last week distributed \$1 billion from Texas’ \$2.1 billion pot of money for Harvey-affected areas, along with smaller amounts stemming from 2015 and 2016 floods. The aid will cover a range of drainage improvement projects, such as channel widenings and new detention basins, along with buyouts of repeatedly flooded areas and other projects intended to mitigate future floods.

The city and county, who unsuccessfully [sought](#) a direct allocation of mitigation funds more than a year ago, collectively applied for \$1.34 billion to cover 14 flood projects: five from the city, nine from the county. Bush’s proposed \$750 million figure amounts to a bit more than half that amount.

Hidalgo it was not enough.

“I’m encouraged state officials have recognized the flaws in their process and Harris County’s desperate need for certainty in receiving Harvey mitigation funds,” Hidalgo said. “I support and continue to call for certainty in funding, but \$750 million for Harris County is still a mere fraction of the \$4.3 billion that the state received for flood mitigation after Hurricane Harvey and not enough to meet our needs.”

The GLO spokeswoman did not respond to an inquiry about whether the \$750 million would be Harris County’s total award from the \$4.3 billion, or whether it would come only from the \$2.1 billion pot of Harvey aid, leaving the county eligible for additional funding.

The federal government already has sent Houston nearly \$62 million out of the \$4.3 billion in response to 2015 floods.



**OFFICE OF INSPECTOR GENERAL**  
U.S. Department of Housing and Urban Development

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

Responses to Representative Emmer's question for the record following the July 15, 2021,  
Subcommittee on Oversight & Investigations Hearing entitled, "CDBG Disaster Recovery: States,  
Cities, and Denials of Funding"  
September 7, 2021

1. While disaster recovery programs are critical, homeowners and communities must be equipped to prepare themselves before catastrophes strike, especially since we know that now that for every \$1 invested in pre-disaster mitigation and more resilient construction, taxpayers can save up to \$11 after a catastrophe. Despite this, under the Obama administration FEMA spent significantly more mitigation dollars after the fact rather than before a disaster. Mr. Begg, can you talk about the cost-saving effects of mitigation and resilient construction and ways we can help reduce moral hazard?

With respect to the U.S. Department of Housing and Urban Development programs under our oversight purview, we have noted in prior work potential moral hazard issues and the effects of mitigation and resilient construction. Grantees often undertake mitigation activities,<sup>1</sup> but they occasionally fail to ensure that the mitigation efforts are appropriately completed. For example, we noted that one grantee failed to ensure that homeowners actually elevated their homes with funds received as part of the grantee's elevation programs.<sup>2</sup> Rather than require homeowners to repay the funds or elevate the homes, HUD worked with the grantee to allow the funds to be used for rehabilitation costs or interim housing. HUD allowed the change because the grants were considered an incentive and were not expected to fully cover the costs of elevation. Allowing this change increased the risk that rehabilitated homes would be damaged by future storms as the homes were not elevated above FEMA base flood levels.

While we agree that mitigation and resilient reconstruction should result in cost savings, we have reported on shortcomings in resiliency programs. For example, in one audit, we found that a grantee did not ensure that properties purchased under the acquisition component of its program

<sup>1</sup> Mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

<sup>2</sup> See report IED-09-002, Inspection of the State of Louisiana's Road Home Elevation Incentive Program Homeowner Compliance, issued March 2010, and report 2013-IE-0803, Follow-up of the Inspections and Evaluations Division on Its Inspection of the State of Louisiana's Road Home Elevation Incentive Program Homeowner Compliance (IED-09-002, March 2010), issued March 29, 2013.

were eligible.<sup>3</sup> Under the grantee's program, purchased properties were eligible for redevelopment in a resilient manner to protect future occupants. The grantee did not ensure that properties were substantially damaged and complied with flood hazard and insurance requirements. As a result, the grantee disbursed more than \$3.5 million for ineligible properties and incentives and more than \$5.9 million for properties that it could not show met applicable requirements, and HUD did not have assurance that disaster recovery funds were used for their intended purpose.

Another issue that we have reported on concerns low- and moderate-income (LMI) matters. LMI disaster fund recipients often lack the financial capacity to maintain homeowners' insurance on newly reconstructed or rehabilitated housing which poses a significant risk to the invested Federal dollars. If a subsequent storm damages a previously assisted home, homeowners often lack the resources to make repairs and may seek additional Federal assistance.<sup>4</sup> We previously recommended that HUD adopt a best practice concerning the issue of homeowners' insurance on Federally assisted homes; however, finding a universal solution has proved difficult due to a variety of reasons including the cost of insurance, who would be expected to provide the coverage, and the monitoring needed to ensure that coverage is maintained.

In addition, we previously reported on a HUD grantee not using Federal funds in a prudent and cost-effective manner after a disaster by spending exponentially more than homes were originally worth to replace them.<sup>5</sup> This resulted in fewer LMI families receiving assistance and could negate the cost-saving benefits of resilient construction. We noted that after Hurricane Ike, a significant government investment benefited a relatively small number of LMI persons. In addition, the LMI protections tied to each property existed for a short time (3 years). Further, there were potential tax implications that could cause a property tax burden that LMI homeowners might not be able to pay. We recommended that HUD require the grantee to implement appropriate cost controls, including for reconstruction and rehabilitation costs, to ensure that it uses limited government resources in a more economical and efficient manner. We stressed that costs should not exceed the costs that would be incurred by a prudent person under similar circumstances.

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<sup>3</sup> See audit report 2019-NY-1001, *The State of New York Did Not Ensure That Properties Purchased Under the Acquisition Component of Its Program Were Eligible*, issued March 29, 2019. We made 8 recommendations. To date, we have not been able to agree with HUD on management decisions and referred the recommendations to the Assistant Secretary for Community Planning and Development on September 30, 2020. While we continue to attempt to reach an agreement, all 8 recommendations remain open.

<sup>4</sup> See audit report 2013-FW-0001, *Generally, HUD's Hurricane Disaster Recovery Program Assisted the Gulf Coast States' Recovery; However, Some Program Improvements Are Needed*, issued March 28, 2013. We made 13 recommendations. We agreed with and closed all of HUD's management decisions to address the recommendations by December 13, 2013.

<sup>5</sup> See audit report 2019-FW-1007, *The Texas General Land Office, Jasper, TX, Did Not Ensure That Its Subrecipient Administered Its Disaster Grant in a Prudent and Cost-Effective Manner*, issued September 30, 2019. We made 3 recommendations. We agreed with and closed all of HUD's management decisions to address the recommendations by March 27, 2020.

**Statement and Questions for the Record**

**In regards to:** House Financial Services Committee Oversight and Investigations Subcommittee Hearing “CDBG Disaster Recovery: States, Cities, and Denials of Funding” on July 15, 2021.

**Submitted by:** Congresswoman Sylvia R. Garcia

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I appreciate the opportunity to ask questions in regards to a significant issue impacting millions of residents in Houston and Harris County. As administrators of the Community Development Block Grant- Mitigation Fund (CDBG-MIT), the General Land Office (GLO) owes Texans an upfront, coherent explanation for their actions. The GLO’s choice to deny funding to the areas most affected by Hurricane Harvey, in a grant program specifically designed to provide disaster mitigation from Hurricane Harvey-affected areas, is inexplicable. These actions have left countless taxpaying citizens wondering why their government has left them unprotected and unable to access grant funding that their federal tax dollars have already paid for.

These funds are not the property of the state, they are granted to the state for responsible administration. GLO has a responsibility to the taxpayers to act in full transparency and with integrity. That is why the decision to allocate \$0 in CDBG-MIT funding for Hurricane Harvey, with the only explanation being to place blame on HUD and the City of Houston, is unacceptable.

Despite repeated pleas to find a solution, GLO has refused HUD’s offer to amend their original proposal of fund dispersion. Rather than working together to find a solution, GLO has committed to a strategy of blaming HUD, and refusing to work together with HUD. HUD has created a special exception for the GLO to modify its original proposal so that they can write one that better reflects the realities of need. In response to these actions, I urge the Commissioner to work with HUD and accept the special exception your organization has been granted for correcting this egregious error.

I also ask the GLO to explain the rationale behind their original funding formula. While it is understood that HUD, under the guidance of the previous Administration, approved these formulas, approval is not an explanation. We must know why the GLO originally made the decision to create a formula that results in absolutely no help given to the most heavily impacted areas. We must know exactly why they have instead chosen completely different locations that should qualify for 50% of this federal funding, which were not designated as intended for this program by HUD.

**Question for Ms. Carol Haddock, Director, Houston Department of Public Works and Engineering**

Ms. Haddock, in your role, you have participated in the city’s attempts to secure funding to protect Houstonians from major disasters. I wanted to ask you about your experience.

In your testimony, you describe the GLO’s limits on mitigation project size. There were also limits on the number of project applications that could be submitted by one entity.

Because of these limits, Houston was constrained in its ability to pursue projects that accurately fit the size and scope of the city.

1. How have these limitations been addressed by GLO?
2. What justification did they give you for denying them?

**Question for Ms. Heather Lagrone, Deputy Director for Community Development and Revitalization, Texas General Land Office**

Ms. Lagrone, while it is abundantly clear that the MIT grant program is not based on past disasters, and the scoring criterion should be based on risk. I understand that and support the intent of this grant.

I reviewed the GLO's MIT application guide, however, and I wanted some clarification.

You designated 50 percent of your MIT funding to "State Most Impacted or Distressed Counties".<sup>1</sup> Yet none of these counties overlap with HUD's designated Most Impacted or Distressed Counties. Furthermore, most of these state-designated counties are further inland, away from the most vulnerable places hit by Hurricane Harvey.

1. How did you determine which counties- separate from HUD's designated impacted counties – would get their own pool of money? In your answers, you stated that the State MID counties were selected by HUD. Please provide documentation from HUD confirming that they did in fact designate the State MID counties as being eligible to receive full-county funding.

HUD named the MID counties in the Federal Register. See Table 1 that you included below from Federal Register Vol. 84, No. 169 page 45842. HUD listed Disasters 4223; 4245; 4266; 4269; 4272; 4332 as ALLOCATIONS FOR MITIGATION ACTIVITIES in the first column. Those disasters include all the eligible counties that make up the HUD and State MIDs.

2. In HUD's CDBG-MIT Federal Register Notice says the following: "The amount of CDBG-MIT funding grantees must expend to mitigate risks within the HUD-identified MID areas is listed in Table 1. In some instances, HUD previously identified the entire jurisdiction of a grantee as the MID area. For all other CDBG-MIT grantees, HUD is requiring that at least 50 percent of all CDBG-MIT funds must be used for mitigation activities that address identified risks within the HUD-identified MID areas. HUD will include 50 percent of a grantee's expenditures for grant administration in its determination that 50 percent of the total award has been expended in the HUD identified MID areas."<sup>2</sup>



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- <sup>1</sup> Texas General Land Office CDBG-MIT Competition Application Guide.  
[https://recovery.texas.gov/files/resources/mitigation/cdbg-mit\\_comp\\_app\\_guide\\_2020.pdf](https://recovery.texas.gov/files/resources/mitigation/cdbg-mit_comp_app_guide_2020.pdf)
- <sup>2</sup> Federal Register Vol. 84, No. 169. August 30, 2019

Table 1.

4223, 4245, 4266, 4269, 4272, 4332	Texas	State of Texas	\$4,297,189,000.00	\$2,105,646,500.00	Aramas, Brazoria, Chambers, Fayette, Fort Bend, Galveston, Hardin, Harris, Hays, Hidalgo, Jasper, Jefferson, Liberty, Montgomery, Newton, Nueces, Orange, Refugio, San Jacinto, San Patricio, Travis, Victoria, and Wharton counties; 75979, 77320, 77335, 77351, 77414, 77423, 77482, 77493, 77979, 78934, 78945, 77612, 75956, 77632, and 78377 Zip Codes.
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- a. According to the aforementioned citation from the Federal Register Notice, and the table above, it was indicated that these counties would receive *at least* 50 percent of the funding.

Given that the GLO did not distribute the funds evenly as the original CDBG-MIT notice clearly communicated, what was the GLO's interpretation of the Notice?

Of the \$4.3 billion allocation, the counties and zip codes designated by HUD as MID would receive at least 50 percent of the funding.

- b. In the Federal Register notice, it is stated that "HUD may approve a grantee's request to add other areas to the HUD-identified MID areas based upon the grantee's submission of a data-driven analysis that illustrates the basis for designating the additional area as most impacted and distressed as a result of the qualifying disaster."

Please provide the aforementioned data-driven analysis indicating how GLO chose the State-MID counties that it selected.

Table 1 above from the Federal Register (from HUD) lists the disaster declarations eligible for the funds in the first column. The counties within those disaster declarations are eligible for this allocation. The first column references disasters for which 49 total counties were eligible for funding. Of those 49 counties, HUD designated certain counties and zip codes as HUD MID. The remaining counties are thereby considered State MID – or non-HUD MID eligible counties.

3. In the hearing, you attested that the Commissioner of the GLO did not participate in determining the formulas that were used to determine the allocation of CDBG-MIT funds.
- a. Who did write these formulas?
- The action plan was developed within the CDR division of the GLO in accordance with HUD Federal Register notice and technical guidance.

- b. Did the Commissioner sign off on the creation of this formula?  
**The Commissioner approved the action plan that was sent to HUD.**
- c. If the Commissioner did not sign off on this formula, please provide an explanation as to why the GLO is managing the distribution of \$4.3 billion in federal funding with the Commissioner being uninvolved in the planning of this distribution.

**Questions for the Record from Chairman Al Green**  
**Oversight and Investigations Subcommittee**  
**“CDBG Disaster Recovery: States, Cities, and Denials of Funding”**  
**July 15, 2021**

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**To: Heather Lagrone**, Senior Deputy Director for Community Development and Revitalization, Texas General Land Office

Denial of Mitigation Funding to Hurricane Harvey’s Most Impacted Areas

Congress relies upon Community Development Block Grant – Disaster Recovery appropriations to fund long-term disaster recovery and mitigation in communities around the nation. In Texas these funds are supposed to flow to local governments from HUD through the state office designated by the Governor, in this case the General Land Office (GLO). In May, however, GLO announced that Houston, Harris County, and other coastal areas hardest hit by Hurricane Harvey would be entirely excluded from any of the billions of dollars in Community Development Block Grant - Mitigation (CDBG-MIT) funds appropriated by Congress for recovery and mitigation following Harvey. This outcome is incongruent not only with Congressional intent but also with the brutal realities of Harvey’s impact, which directly struck the very jurisdictions now being shut out of funding by GLO in favor of inland areas with little or no hurricane impact.

1. How is this outcome compliant with the mandate that Texas direct mitigation funds to the “most impacted and distressed” (MID) areas, as required by Texas’ grantee agreement with HUD and the applicable rules?

We allocated 50% to the most impacted as direct by HUD. See document entitled “CDBG-MIT funding: Who is eligible.”

2. Please explain GLO’s decision to utilize a funding formula that excluded the most populous and most impacted jurisdictions in Texas – Houston and Harris County – from receiving any mitigation funding, while diverting those funds to inland areas with little or no damage from Harvey?

We did not design a funding formula to exclude eligible entities from any of the 140 HUD designated eligible counties. See document entitled “Competition Criteria from FR.”

- (a) As a recognized expert in community development and disaster recovery, what was your advice regarding whether or not GLO should rely on a formula that would disadvantage the most impacted and distressed areas hit by Harvey?

The formula was not designed to disadvantage any of the 140 HUD designated eligible counties.

We followed the guidance in the Federal Register notice Vol. 84, No. 169, as well as technical guidance provided by HUD throughout the action plan development phase. HUD approved Texas’ state action plan including the competition criteria.

- (b) Please identify each person and office in Texas government that was involved in creating the formula. What persons or entities, if any, outside of state government were involved in creating the formula?

Community Development and Revitalization division staff at the TX GLO  
See [State of Texas CDBG-MIT Action Plan](#)  
pages 276-281: Citizen Participation  
pages 302-318: Appendix E: Consultations – State of Texas

- i) Did you or your colleagues in Texas government communicate via email regarding the funding formula?

GLO held daily planning meetings related to action plan development. Other communication regarding the formula can be seen above in the action plan.

- ii) If so, please describe the frequency and content of these communications.

See above. Citizen participation and consultations.

- (c) When in 2020 did GLO first learn from Houston that reliance on GLO's formula would have an adverse disparate impact on urban and LMI areas with denser population levels?

See [State of Texas CDBG-MIT Action Plan](#)  
pages 365-370: 12/11/2019 PUBLIC HEARING IN HOUSTON

- i) What other concerns were registered with GLO about the formula and by whom?

See [State of Texas CDBG-MIT Action Plan](#)  
pages 323- 351: Appendix G: Public Comment

- (d) What remedial actions were considered or taken by GLO with respect to correcting the formula in response to the warning from Houston?

Revisions made to the action plan include:

- Two rounds of competitions would be held instead of one
- The minimum application for Hurricane Harvey State Mitigation Competition applications decreased from \$5 million to \$3 million.
- For the Hurricane Harvey State Mitigation Competition applicants may submit 3 applications individually and 3 in partnership with other entities.
- In the draft plan for the three State mitigation competitions, an entity could not be awarded a second application before every eligible entity had received a first

award. This is changed to set a minimum score for applications receiving a first award before anyone receives a second award.

- Councils of Governments (COGs) are eligible to apply for the Resilient Communities Program

- (e) Was Commissioner Bush informed of the adverse impact GLO's formula could have on those communities in most desperate need of mitigation funding? What was his response? What direction did he provide to the staff?

Commissioner Bush's direction to staff was to follow all HUD requirements in dispersing of the allocation.

3. At the hearing Mr. Timmons asked the following question regarding the mitigation funding allocation formula created by GLO and you gave the following answer in response:

Mr. TIMMONS: Do you think future formulas should probably maybe take into account population density and just the public perception that it is inappropriate to not give any resources to some of the larger areas? Is that reasonable maybe?

Ms. LAGRONE: So what we did is we looked at a total population being served as an aspect of the scoring criteria. And one would think that when you have a higher population to serve, that that number, that denominator, if you will, would be a bigger number. So we thought by putting together a formula that allocated funds based on populations served, we were accounting for the larger population areas.

Explain why GLO thought that:

- (a) "when you have a higher population to serve, that that number, that denominator, if you will, would be a bigger number."
- (b) "by putting together a formula that allocated funds based on populations served, [the formula would] account[] for the larger population areas."

See [Hurricane Harvey Mitigation Competition Scoring Criteria:](#)  
Page 20: Project Impact

Indicate whether it remains the official position of GLO that:

- (c) "when you have a higher population to serve, that that number, that denominator, if you will, would be a bigger number."
- (d) "by putting together a formula that allocated funds based on populations served, [the formula would] account[] for the larger population areas."

Project impact was a factor required by HUD in Federal Register notice Vo.84, No. 169.  
See [Hurricane Harvey Mitigation Competition Scoring Criteria:](#)  
Page 20: Project Impact

#### CDBG-MIT Action Plan Amendment

In Texas' proposed \$4.29 billion Action Plan, GLO sought and received approval from the Trump

Administration to conduct a “competition” to determine the recipients of mitigation grant funding. That approval did *not* include the allocation formula that GLO used, but as a condition of plan approval, in the grant agreement HUD required GLO to submit the results of its competition in the form of an Action Plan amendment.

4. By what date will GLO submit the required Action Plan amendment?

The allocation formula was a part of the document approved by HUD. (See Action Plan page 232)

The amended action plan is now more than 1,000 pages due to the grant conditions required by HUD. The GLO published the action plan in five different languages for a federally mandated 30-day public comment period beginning on August 23. Once the public comment period ends, the GLO will then send the plan, comments, and responses to HUD for review.

5. In what ways have you been involved in drafting the Action Plan amendment?
- (a) What are the provisions of the Action Plan amendment with respect to:
    - i) Harris County
    - ii) Houston
    - iii) Other coastal jurisdictions that received \$0 in mitigation funds under the GLO formula?

The amendment has been posted on our website at [recovery.texas.gov/public-notice](https://recovery.texas.gov/public-notice).



6. (a) How did Commissioner Bush determine that \$750 million is the correct amount of mitigation to fund in Harris County?

See Action Plan Amendment

<https://recovery.texas.gov/public-notice/files/mitigation-sap-amend-1.pdf>

- i) What are the line item components of that \$750 million figure?  
Harris County will develop a Method of Distribution that will include use of the funds. Additionally, the APA includes eligible uses of funds.
  - ii) What mitigation projects does that figure exclude?  
See above. To be determined by Harris County. Additionally, the APA includes eligible uses of funds.
  - iii) What mitigation projects does it fund only in part? What is the rationale for providing only partial funding to Harris County for its mitigation needs?  
See above. To be determined by Harris County
- (b) Why did Commissioner Bush decide not to amend the Action Plan to provide mitigation funds to the city of Houston?  
Harris County encompasses the City of Houston
- i) In your professional judgment is it appropriate to direct \$750 million to the County while directing \$0 to the City? If so, why?  
Harris County encompasses the City of Houston
  - ii) Why not use the Plan amendment to direct funding to Houston as well?  
Harris County encompasses the City of Houston

#### Findings of Houston Chronicle Investigation

According to the *Chronicle's* analyses, GLO's approach resulted in funding being allocated to counties with a lower risk of natural disasters — by the state's own measure, the Composite Disaster Index — and to projects that help fewer residents per dollar spent than unfunded projects in more vulnerable counties. For example, Port Arthur, in high-risk Jefferson County, applied for \$97 million to replace storm water pipes, for the benefit of 42,000 residents. The project was denied funding. At the same time, Iola, in lower-risk Grimes County sought \$11 million for a wastewater system that would serve 379 residents. The project was funded with CDBG-MIT dollars.

7. How does GLO justify this inequitable result for residents of Port Arthur and other unfunded, high risk counties?

HUD, not the GLO, forbade damage from any previous disaster from being included as a scoring criterion in the funding competition.

In a letter to the GLO on June 14, 2021, HUD stated, "Unlike CDBG-DR allocations, which are allocated based on a long-established damage-based formula, CDBG-MIT was made available in Public Law 115-123" confirming that the GLO could not consider previous damages in administering the funds. While drafting the action plan, GLO staff was repeatedly reminded

by HUD staff that damage from previous disasters was not allowed to be a consideration for funding. If the GLO had been allowed to use the Federal Emergency Management Agency (FEMA) damage assessment, which is used to score Hazard Mitigation Grant Program applications, then those who received the most damage during Hurricane Harvey could have benefitted from that criteria.

GLO's Communications with HUD

In your written testimony, you state that "Based on this definition [of mitigation in 84 FR 45838] and clarifying statement [at 84 FR 45849] the GLO was not able to use damage assessments from previous storms when developing the competition scoring criteria." GLO Testimony at 2. Under questioning regarding this contention, you testified as follows:

Ms. WILLIAMS OF GEORGIA: Am I correct ... that while a tieback to a particular disaster, such as Hurricane Harvey, was not required under the rule cited, neither was the tieback prohibited by the rule?

Ms. LAGRONE: That is correct. A tieback was not prohibited; however, it was not required. And HUD told us that damage from a previous event was not something we should consider with the allocation of the methodology that we put together. (emphasis added)

Ms. WILLIAMS OF GEORGIA: So the tieback was not prohibited by the rule. Therefore, would you agree that under the HUD rule cited, GLO could have tied back the CDBG-MIT funded projects to Hurricane Harvey?

Ms. LAGRONE: No. Based on our technical assistance and our conversations with HUD, they clarified that statement for us, that we could not consider previous damage in our methodology for distribution of the \$4 billion. (emphasis added)

Ms. WILLIAMS OF GEORGIA: So GLO chose not to do so?

Ms. LAGRONE: Based on the guidance that we received from HUD. (emphasis added)

8. List each and every person who was a party to the communications referenced (including but not limited to “technical assistance,” “conversations,” and “guidance ... received from HUD) in your answers to Rep. Williams, including the date, time, medium, and content of those communications.

With respect to all communications with HUD referenced in your testimony that were in writing or that were memorialized by GLO staff, produce those writings,

The CDR division staff of the GLO have weekly, if not daily interaction, with HUD staff including conferences, technical assistance workshops.

In addition to biweekly calls with the HUD staff assigned to the Texas CDBG grants, the GLO team attended the following events specifically related to the CDBG-MIT allocation.

Date	Name of Conference	Location
9/6/2019	Web seminar as a panelist: Texas CDBG Mitigation (CDBG-MIT) Webinar	Online
11/6/2019	HUD-Webinar with the Corporation for National and Community Service	Online
12/20/2019	Allocation Methodology Grantee Meetings - CDBG-DR - Texas	Online
6/4/2020	Update on Coordination Between HUD CDBG-MIT/CDBG-DR and FEMA Mitigation Programs	Online
6/11/2020	CDBG-DR and CDBG-MIT Webinar Series – Spring 2020	Online
8/20/2020	CDBG-DR & CDBG MIT Webinar - Single Family Rehabilitation Program	Online
9/3/2020	CDBG-DR & CDBG-MIT Webinar - Managing and Monitoring Subrecipients	Online
9/17/2020	CDBG-DR & CDBG-MIT Webinar - Developing Infrastructure Projs. from Procurement to Closeout	Online
3/29-4/2/21	CDBG DR Clinic	Online



## CDBG-MIT funding

### Who is eligible?

On April 10, 2018, U.S. Department of Housing and Urban Development (HUD) announced (<https://archives.hud.gov/news/2018/pr18-028.cfm>) it allocated a total of \$4,383,085,000 to three Texas entities for three different disaster years. The allocation amounts for each entity by disaster were:

Disaster Year	Grantee	CDGB-DR Awards for Mitigation
2017	State of Texas	\$4,074,456,000
2016	State of Texas	\$169,748,000
2015	Houston, TX	\$61,884,000
2015	San Marcos, TX	\$24,012,000
2015	State of Texas	\$52,985,000
	TOTAL	\$4,383,085,000

On Friday, August 30, 2019, HUD published Federal Register notice Vol. 84, No. 169.

The "Disaster Number" column dictates eligible entities from federal disasters 4223, 4245, 4266, 4269, 4272, and 4332 (see highlighted) are eligible for mitigation funding. All Counties with Federal Disaster Declarations under those Disaster numbers are eligible for this allocation per HUD.

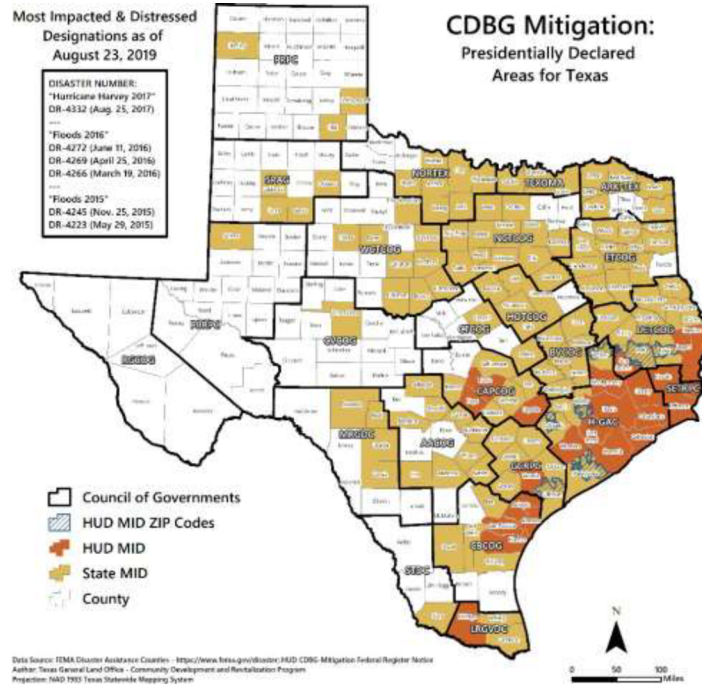
#### III. Allocations: TABLE 1- ALLOCATIONS FOR MITIGATION ACTIVITIES

Disaster No.	State	Grantee	CDBG-MIT Allocation	Minimum amount that must be expended in the HUD-identified "most impacted and distressed" areas listed herein	HUD-identified "most impacted and distressed" areas
4223; 4245; 4266; 4269; 4272; 4332	Texas	State of Texas	\$4,297,189,000	\$2,105,646,500	Aransas, Brazoria, Chambers, Fayette, Fort Bend, Galveston, Hardin, Harris, Hays, Hidalgo, Jasper, Jefferson, Liberty, Montgomery, Newton, Nueces, Orange, Refugio, San Jacinto, San Patricio, Travis, Victoria, and Wharton counties; 75979, 77320, 77335, 77351, 77414, 77423, 77482, 77493, 77979, 78934, 78945, 77612, 75956, 77632, and 78377 Zip Codes.
4223; 4245		Houston	\$61,884,000	\$61,884,000	Houston
4223;4245		San Marcos	\$24,012,000	\$24,012,000.00	San Marcos

**Disasters cited by HUD as eligible for CDBG-MIT funding:**

- Disaster 4223 - Texas Severe Storms, Tornadoes, Straight-line Winds, And Flooding  
Incident Period: May 4, 2015 - Jun 22, 2015
- Disaster 4245 - Texas Severe Storms, Tornadoes, Straight-line Winds, And Flooding  
Incident Period: Oct 22, 2015 - Oct 31, 2015
- Disaster 4266 - Texas Severe Storms, Tornadoes, And Flooding  
Incident Period: Mar 7, 2016 - Mar 29, 2016
- Disaster 4269 - Texas Severe Storms and Flooding  
Incident Period: Apr 17, 2016 - Apr 30, 2016
- Disaster 4272 - Texas Severe Storms and Flooding  
Incident Period: May 22, 2016 - Jun 24, 2016
- Disaster 4332 - Texas Hurricane Harvey  
Incident Period: Aug 23, 2017 - Sep 15, 2017

The GLO's state action plan mapped all 140 counties including the ones designated "most impacted and distressed", or HUD MID, as well as the other HUD eligible counties, commonly referred to as State MID. HUD's Federal Register notice granted the State of Texas the option to add additional counties to the eligibility list – *the GLO declined to add additional counties to HUD's eligibility list. The GLO did not add any counties to the eligible counties list beyond those designated by HUD.*



Of the 140 counties eligible for funding through CDBG-MIT, 28 qualify for funding eligibility for all three disasters:

County	2015	2016	Harvey (2017)	Eligible for funding under all three disasters?
Anderson	-	HUD eligible	-	-
Angelina	HUD eligible	HUD eligible	-	-
Aransas	-	-	HUD MID	-
Archer	HUD eligible	-	-	-
Atascosa	HUD eligible	-	-	-
Austin	HUD eligible	HUD eligible	HUD eligible	Yes
Bandera	-	HUD eligible	-	-
Bastrop	HUD eligible	HUD eligible	HUD eligible	Yes
Baylor	HUD eligible	-	-	-
Bee	-	-	HUD eligible	-
Blanco	HUD eligible	-	-	-

<b>Bosque</b>	HUD eligible	HUD eligible	-	-
<b>Bowie</b>	HUD eligible	-	-	-
<b>Brazoria</b>	HUD eligible	HUD MID	HUD MID	Yes
<b>Brazos</b>	-	HUD eligible	-	-
<b>Brown</b>	HUD eligible	HUD eligible	-	-
<b>Burleson</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Caldwell</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Calhoun</b>	-	-	HUD eligible	-
<b>Callahan</b>	HUD eligible	HUD eligible	-	-
<b>Cameron</b>	HUD eligible	-	-	-
<b>Cass</b>	HUD eligible	HUD eligible	-	-
<b>Chambers</b>	-	-	HUD MID	-
<b>Cherokee</b>	HUD eligible	HUD eligible	-	-
<b>Clay</b>	HUD eligible	-	-	-
<b>Coleman</b>	-	HUD eligible	-	-
<b>Collingsworth</b>	HUD eligible	-	-	-
<b>Colorado</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Comal</b>	HUD eligible	-	HUD eligible	-
<b>Comanche</b>	HUD eligible	HUD eligible	-	-
<b>Cooke</b>	HUD eligible	-	-	-
<b>Coryell</b>	HUD eligible	HUD eligible	-	-
<b>Dallas</b>	HUD eligible	-	-	-
<b>Delta</b>	HUD eligible	-	-	-
<b>Denton</b>	HUD eligible	-	-	-
<b>DeWitt</b>	HUD eligible	-	HUD eligible	-
<b>Dickens</b>	HUD eligible	-	-	-
<b>Duval</b>	HUD eligible	-	-	-
<b>Eastland</b>	HUD eligible	HUD eligible	-	-
<b>Edwards</b>	HUD eligible	-	-	-
<b>Ellis</b>	HUD eligible	-	-	-
<b>Erath</b>	HUD eligible	HUD eligible	-	-
<b>Falls</b>	-	HUD eligible	-	-
<b>Fannin</b>	HUD eligible	-	-	-
<b>Fayette</b>	HUD eligible	HUD eligible	HUD MID	Yes
<b>Fisher</b>	-	HUD eligible	-	-
<b>Fort Bend</b>	HUD eligible	HUD MID	HUD MID	Yes
<b>Frio</b>	HUD eligible	-	-	-
<b>Gaines</b>	HUD eligible	-	-	-



Galveston	HUD eligible	-	HUD MID	-
Garza	HUD eligible	-	-	-
Gillespie	HUD eligible	-	-	-
Goliad	-	-	HUD eligible	-
Gonzales	HUD eligible	-	HUD eligible	-
Grayson	HUD eligible	-	-	-
Gregg	-	HUD eligible	-	-
Grimes	HUD eligible	HUD eligible	HUD eligible	Yes
Guadalupe	HUD eligible	-	HUD eligible	-
Hall	HUD eligible	HUD eligible	-	-
Hardin	HUD eligible	HUD eligible	HUD MID	Yes
Harris	HUD MID	HUD MID	HUD MID	Yes
Harrison	HUD eligible	HUD eligible	-	-
Hartley	HUD eligible	-	-	-
Hays	HUD MID	-	-	-
Henderson	HUD eligible	HUD eligible	-	-
Hidalgo	HUD MID	HUD eligible	-	-
Hill	HUD eligible	-	-	-
Hood	HUD eligible	HUD eligible	-	-
Hopkins	HUD eligible	-	-	-
Houston	HUD eligible	HUD eligible	-	-
Jack	HUD eligible	-	-	-
Jackson	-	-	HUD eligible	-
Jasper	HUD eligible	HUD eligible	HUD MID	Yes
Jefferson	-	-	HUD MID	-
Jim Wells	HUD eligible	-	HUD eligible	-
Johnson	HUD eligible	-	-	-
Jones	HUD eligible	HUD eligible	-	-
Karnes	-	-	HUD eligible	-
Kaufman	HUD eligible	-	-	-
Kendall	HUD eligible	-	-	-
Kleberg	-	HUD eligible	HUD eligible	-
Lamar	HUD eligible	HUD eligible	-	-
Lavaca	-	-	HUD eligible	-
Lee	HUD eligible	HUD eligible	HUD eligible	Yes
Leon	HUD eligible	HUD eligible	-	-
Liberty	HUD eligible	HUD eligible	HUD MID	Yes
Limestone	-	HUD eligible	-	-

Lubbock	HUD eligible	-	-	-
Lynn	HUD eligible	-	-	-
Madison	HUD eligible	HUD eligible	HUD eligible	Yes
Marion	-	HUD eligible	-	-
Matagorda	-	-	HUD eligible	-
McLennan	HUD eligible	-	-	-
Milam	HUD eligible	HUD eligible	HUD eligible	Yes
Montague	HUD eligible	-	-	-
Montgomery	HUD eligible	HUD MID	HUD MID	Yes
Nacogdoches	HUD eligible	-	-	-
Navarro	HUD eligible	HUD eligible	-	-
Newton	HUD eligible	HUD MID	HUD MID	Yes
Nueces	HUD eligible	-	HUD MID	-
Orange	HUD eligible	HUD eligible	HUD MID	Yes
Palo Pinto	HUD eligible	HUD eligible	-	-
Parker	HUD eligible	HUD eligible	-	-
Polk	HUD eligible	HUD eligible	HUD eligible	Yes
Real	HUD eligible	-	-	-
Red River	HUD eligible	HUD eligible	-	-
Refugio	HUD eligible	-	HUD MID	-
Robertson	HUD eligible	-	-	-
Rusk	HUD eligible	-	-	-
Sabine	HUD eligible	HUD eligible	HUD eligible	Yes
San Augustine	HUD eligible	HUD eligible	HUD eligible	Yes
San Jacinto	HUD eligible	HUD eligible	HUD MID	Yes
San Patricio	-	-	HUD MID	-
Shelby	HUD eligible	HUD eligible	-	-
Smith	HUD eligible	HUD eligible	-	-
Somervell	HUD eligible	HUD eligible	-	-
Starr	HUD eligible	-	-	-
Stephens	-	HUD eligible	-	-
Tarrant	HUD eligible	-	-	-
Throckmorton	HUD eligible	HUD eligible	-	-
Tom Green	HUD eligible	-	-	-
Travis	HUD MID	HUD eligible	-	-
Trinity	HUD eligible	HUD eligible	-	-
Tyler	HUD eligible	HUD eligible	HUD eligible	Yes
Upshur	-	HUD eligible	-	-

<b>Uvalde</b>	HUD eligible	-	-	-
<b>Van Zandt</b>	HUD eligible	HUD eligible	-	-
<b>Victoria</b>	HUD eligible	-	HUD MID	-
<b>Walker</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Waller</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Washington</b>	HUD eligible	HUD eligible	HUD eligible	Yes
<b>Wharton</b>	HUD eligible	HUD eligible	HUD MID	Yes
<b>Wichita</b>	HUD eligible	-	-	-
<b>Willacy</b>	HUD eligible	-	-	-
<b>Williamson</b>	HUD eligible	-	-	-
<b>Wilson</b>	HUD eligible	-	-	-
<b>Wise</b>	HUD eligible	-	-	-
<b>Wood</b>	-	HUD eligible	-	-
<b>Young</b>	HUD eligible	-	-	-
<b>Zavala</b>	HUD eligible	-	-	-

## III. Allocations: TABLE 1 – ALLOCATIONS FOR MITIGATION ACTIVITIES

Disaster No.	State	Grantee	CDBG-MIT Allocation	Minimum amount that must be expended in the HUD-identified "most impacted and distressed" areas listed herein	HUD-identified "most impacted and distressed" areas
4344, 4353	California	State of California	\$88,219,000.00	\$44,109,500.00	Sonoma and Ventura counties; 93108, 94558, 95422, 95470, and 95901 Zip Codes.
4280, 4283, 4337, 4341	Florida	State of Florida	\$633,485,000.00	\$316,742,500.00	Brevard, Broward, Clay, Collier, Duval, Hillsborough, Lee, Miami Dade, Monroe, Orange, Osceola, Palm Beach, Polk, St. Johns, St. Lucie, and Volusia counties; 32084, 32091, 32136, 32145, 32771, 33440, 33523, 33825, 33870, 32068, 33935, and 34266 Zip Codes.
4294, 4297, 4338	Georgia	State of Georgia	\$26,961,000.00	\$13,480,500.00	31520, 31548, and 31705 Zip Codes.
4263, 4277, 4272	Louisiana	State of Louisiana	\$1,213,917,000.00	\$606,958,500.00	East Baton Rouge, Livingston, Ascension, Tangipahoa, Ouachita, Lafayette, Vermilion, Acadia, Washington, and St. Tammany Parishes.
4317	Missouri	State of Missouri	\$41,592,000.00	\$20,796,000.00	63935, 63965, 64850, 65616, and 65775 Zip Codes.
4285	North Carolina	State of North Carolina	\$168,067,000.00	\$84,033,500.00	Bladen, Columbus, Cumberland, Edgecombe, Robeson, and Wayne Counties.
4241, 4286	South Carolina	State of South Carolina	\$157,590,000.00	\$50,978,000.00	Charleston, Clarendon, Dorchester, Florence, Georgetown, Horry, Marion, Sumter, and Williamsburg Counties.
4241		Columbia	\$18,585,000.00	\$18,585,000.00	Columbia.
4241		Lexington County (Urban County)	\$15,185,000.00	\$15,185,000.00	Lexington County Urban County Jurisdictions.
4241		Richland County (Urban County)	\$21,864,000.00	\$21,864,000.00	Richland County Urban County Jurisdictions.
4223, 4245, 4266, 4269, 4272, 4332	Texas	State of Texas	\$4,297,189,000.00	\$2,105,646,500.00	Aramas, Brazoria, Chambers, Fayette, Fort Bend, Galveston, Hardin, Harris, Hays, Hidalgo, Jasper, Jefferson, Liberty, Montgomery, Newton, Nueces, Orange, Refugio, San Jacinto, San Patricio, Travis, Victoria, and Wharton counties; 75979, 77320, 77335, 77351, 77414, 77423, 77482, 77493, 77979, 78934, 78945, 77612, 75956, 77632, and 78377 Zip Codes.
4223, 4245		Houston	\$61,884,000.00	\$61,884,000.00	Houston.
4223, 4245		San Marcos	\$24,012,000.00	\$24,012,000.00	San Marcos.
4273	West Virginia	State of West Virginia	\$106,494,000.00	\$53,247,000.00	Greenbrier, Clay, Kanawha and Nicholas Counties.
Total*			\$6,875,044,000.00		

\*The remaining \$9,059,472,000 will be allocated at a later date.

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In accordance with the Appropriations Act, HUD's allocation of CDBG-MIT funds is based on each grantee's proportional share of total

To be responsive to the requirements placed on the CDBG-MIT program the GLO established a competition that considered 9 factors.

- 1) **County Composite Disaster Index – 10 points possible.** In partnership with the Center for Space Research at the University of Texas the GLO conducted a geospatial analysis of historic hazard damage across the state's 254 counties to develop an index ranking counties for likely risk and possibility of recurrence.

*84 FR 45838 (August 30, 2019) – Support data-informed investments in high-impact projects that will reduce risks attributable to natural disasters, with particular focus on repetitive loss of property and critical infrastructure.*

- 2) **Social Vulnerability Index – 10 points possible.** At the recommendation of HUD and since 2015 CDBG-DR funding, the GLO utilized a social vulnerability index that synthesizes 29 socioeconomic variables which contribute to reduction in a community's ability to prepare for, respond to, and recover from hazards developed by the University of South Carolina's Hazards & Vulnerability Research Institute.

*84 FR 45838 (August 30, 2019) – Unlike other forms of Federal disaster recovery assistance, CDBG-DR and CDBG-MIT grants have a statutory focus on benefiting vulnerable lower-income people and communities and targeting the most impacted and distressed areas.*

- 3) **Per Capita Market Value – 10 points possible.** To establish a community's economic condition the GLO compared the market value of all property in a county divided by the county population as per the State Comptroller's Office.

*84 FR 45839 (August 30, 2019) – HUD expects grantees to contribute to their recovery through the use of reserve or "rainy day" funds, borrowing authority, or retargeting of existing resources.*

- 4) **Low to Moderate Income National Objective – 20 points possible.** Per the federal register, at least 50% of the CDBG-MIT funds must be spent on LMI eligible projects. To ensure compliance the GLO set a competition criterion to prioritize this through scoring.

*84 FR 45847 (August 30, 2019) - Proposed mitigation programs and projects must prioritize the protection of low-and-moderate income (LMI) individuals.*

- 5) **Project type Identified In Local Adopted Plan – 5 points possible** HUD expected grantees to encourage and support the development mitigation planning efforts.

*84 FR 45838 (August 30, 2019) - Support the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction, to include the risk reduction to community lifelines*

- 6) **Management Capacity – 15 points possible.** As the grantee for HUD funds, the GLO is responsible for all compliance including that of any subrecipients.

*84 FR 45845 (August 30, 2019) - The Grantee must have: The criteria to be used to evaluate the capacity of potential subrecipients*

- 7) **Project Impact – 25 points possible** HUD indicated in training, verbally, and in the federal register the CDBG-MIT activities must include consideration for cost benefit while still maintaining a 50% overall benefit to LMI projects.

*84 FR 45851 (August 30, 2019) - The action plan or substantial amendment must describe how the benefits of the Covered Project outweigh the costs of the Covered Project.*

- 8) **Leverage – 5 points possible** To encourage local match the GLO awarded points if an applicant brought other funds to the proposed project.

*84 FR 45838 (August 30, 2019) - Maximize the impact of available funds by encouraging leverage, privatepublic partnerships, and coordination with other Federal programs.*

- 9) **Mitigation/Resiliency Measure – 5 points possible** The GLO rewarded communities that could show positive steps toward resolving local risks in public adopted documents as identified in their applications.

*84 FR 45838 (August 30, 2019) -Support the adoption of policies that reflect local and regional priorities that will have long-lasting effects on community risk reduction*

**Williams (GA) Questions for the Record**  
**Oversight and Investigations Subcommittee Hearing**  
**“CDBG Disaster Recovery: States, Cities, and Denials of Funding”**  
**July 15, 2021**

*Question 1:* Ms. Saadian, in your testimony, you mentioned that disaster recovery often restores “normal” even if building back more equitably would mean making different and better investments. What kinds of investments in infrastructure and community development could be made to dismantle racial inequality coming out of major disasters, and how can Congress be sure those investments are made?

*Answer:* The issues of disaster recovery, segregation, and inequality are deeply intertwined. Low-income communities and communities of color are often forced to live in disinvested areas without sufficient infrastructure to protect against disasters.<sup>1</sup> These communities are often located on land susceptible to natural hazards, unlike white and wealthier communities. As a result, these communities are more likely to suffer damage due to disaster and take longer to recover afterward. Moreover, current disaster housing recovery efforts often focus on rebuilding communities, without efforts to undo the racial segregation and inequalities that existed prior to the disaster. Dismantling segregation and inequality must be an explicit goal of long-term disaster recovery efforts. Any effort to help long-term communities rebuild must actively work to end racial segregation and discrimination.

Current long-term recovery efforts often exacerbate societal inequities. Low-income people, people of color, people with disabilities, and immigrants face increased disaster-caused displacement from the dual threats of disinvestment and speculation, which exacerbate the disparities created by segregation and inequality.<sup>2</sup> It is critical for disaster recovery planning to go hand-in-hand with fair housing compliance so that rebuilding efforts explicitly acknowledge and address the impact of racism, segregation, and inequality. Case management services and housing counselors can support displaced households that wish to relocate into neighborhoods of their choice, including neighborhoods connected to resources, good-paying jobs, good-performing schools, and other benefits. These services can provide assistance in finding available housing and in moving.

Local organizations serving marginalized communities must be involved in long-term recovery efforts to ensure that recovery programs recognize and address the needs of these communities. This involvement does not just pertain to the accessibility of programs, but also to decisions on rebuilding and reconstruction. Construction of new housing must be sited in a manner that decreases segregation and protects against harm by future disasters. This should not only apply to rebuilding homes but also to infrastructure and community development efforts, allowing communities themselves to direct how best to fight inequality and segregation.

<sup>1</sup> Cooper, J. T., & Hicks, J. (2017). How black history has influenced disaster planning. Center for Disaster Philanthropy. Retrieved from: <https://bit.ly/3ec5qD3>

<sup>2</sup> Frazee, G. (2019). How natural disasters can increase inequality. *PBS NewsHour*. Retrieved from: <https://to.pbs.org/3fwnisu>

Given the widespread nature of segregation and inequality in the U.S., it is not enough to state the equitable intent of a disaster recovery or infrastructure investment program. Explicit requirements for desegregation and adherence to civil rights law must be included in both contractor regulations and agreements with states, local governments, and federal agencies. Making equity explicit strengthens the ability of protected classes to seek legal redress at times when recovery is less than equitable. Federal law should require compliance.

Federal, state, and local governments have underinvested in the infrastructure of marginalized communities for decades.<sup>3</sup> This lack of infrastructure compounds the negative impact of disasters, damaging more housing and displacing more residents. Houston, Texas has perhaps the most noticeably segregated infrastructure, with 88% of the city's open drainage system – trenches on the side of the road – located in communities of color. These ditches become clogged and flood easily during major storms like Hurricane Harvey, exacerbating damage to homes. Despite this recurring problem, state and local government continues to divert infrastructure resources away from poorer communities of color toward higher-income, white communities. Infrastructure projects should be prioritized to improve and protect lower-income communities, communities of color and people with disabilities, and to compensate for the lack of effective infrastructure. All communities should have at least the minimum amount of infrastructure needed to protect residents.

Federal statute, regulation and HUD Federal Register notices require that activities and programs funded through the Community Development Act of 1964 operate in ways that “affirmatively further fair housing.” HUD CDBG-DR Federal Register notices have specifically required that the grantee “certifies that it will affirmatively further fair housing,” which means that it will conduct an analysis to identify impediments to fair housing choice within the state, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.<sup>4</sup>

HUD has underenforced these laws for decades. This same neglect has carried through to HUD approval of CDBG-DR state action plans that have been blind to impacts on housing access, housing availability, mobility, and racial, ethnic, and economic integration. The current top-down, non-participatory nature of CDBG-DR action plan development allows HUD and grantees to ignore fair housing considerations.

HUD often approves CDBG-DR action plans that have violations of civil rights law built into their structure. Plans have been approved that provide assistance to homeowners based upon discriminatory property values, that underassess the number of renters affected by a disaster, or that favor homeowners. HUD has the authority to reject CDBG-DR action plans that do not provide for implementation of civil rights protections.<sup>5</sup> Yet HUD has repeatedly failed to exercise such authority, relying instead on certifications rather than the actual language and substance of the grantee draft plans.<sup>6</sup>

<sup>3</sup> Sanchez, T. W., Stolz, R., & Ma, J. S. (2003). *Moving to Equity: Addressing Inequitable Effects of Transportation Policies on Minorities*. Cambridge, MA: The Civil Rights Project at Harvard University. Retrieved from: <https://www.civilrightsproject.ucla.edu/research/metro-and-regional-inequalities/transportation/moving-to-equity-addressing-inequitable-effects-of-transportation-policies-on-minorities/sanchez-moving-to-equity-transportation-policies.pdf>

<sup>4</sup> (71 Fed. Reg. 7666, 7671, Feb. 13, 2006, Katrina) (78 Fed. Reg. 14329, 14347, March 5, 2013 Sandy).

<sup>5</sup> (24 C.F.R. § 91.500)

<sup>6</sup> (24 CFR § 91.225)



Moreover, local and state governments involved in disaster recovery often have very little experience administering recovery programs fairly. Historically, HUD has provided little training on fair housing responsibilities or monitoring to ensure fair housing requirements are met, even though such requirements apply to recovery programs. As a result, it has been the job of advocates already overburdened with assisting disaster-stricken communities to attempt to enforce fair housing laws and hold HUD accountable. The largest ever federal fair housing settlement came about through a complaint brought by Fair Share Housing Center, the New Jersey Latino Action Network, and the New Jersey State Conference of the NAACP, creating a more than half-billion-dollar program to rebuild or replace approximately 7,000 affordable rental homes impacted by Superstorm Sandy, which disproportionately impacted Black and Latino communities in New Jersey. Advocates after Hurricanes Katrina, Ike, and Dolly have also achieved major fair housing victories. Relying on local advocates to ensure compliance with federal protections rather than clear rules enforced by HUD, however, assumes that resources exist for prolonged legal battles, and if such battles are carried out, they further delay the recovery process while they are litigated.

*Question 2:* And we can't just build back better over the long run if we aren't equipped to prevent housing insecurity in the immediate aftermath of a disaster. Ms. Saadian, you mentioned that housing prices often go up after a disaster due to the increased demand for housing and reduced supply. What kinds of federal assistance would better position families to weather these increases in the aftermath of a disaster and prevent homelessness

*Answer:* One of the top priorities after a disaster is ensuring that survivors have a stable, affordable place to call home while they get back on their feet. Under the Disaster Housing Assistance Program (DHAP), displaced families receive longer-term direct rental assistance and wrap-around case management services provided by local housing professionals with extensive knowledge of the local housing market. This assistance helps families find permanent housing solutions, secure employment, and connect to public benefits as they rebuild their lives. DHAP was created after hard-won lessons from Hurricane Katrina, and it has been used successfully in major storms since. DHAP has been upheld as a best practice by past Republican and Democratic administrations.

DHAP was designed to help low-income survivors who face significant barriers to accessing FEMA's Transitional Shelter Assistance (TSA) motel program and who need longer-term housing stability to fully recover. TSA is not well-suited for low-income survivors because hotels often charge daily "resort" fees on top of FEMA reimbursements, require security deposits, or require that displaced households have credit cards — all of which are barriers to low-income households who have already depleted any savings that they may have had and who are often unbanked or underbanked. TSA also relies on arbitrary, short-term deadlines — often giving survivors only a few days or hours-notice — and creates burdensome hoops that families must jump through to use the program.

Without DHAP, displaced, low-income families often have little choice but to double or triple up with other low-income families, return to uninhabitable homes, or pay more than half of their limited incomes on rent, making it harder to meet their other basic needs. Survivors without stable, affordable homes face a higher risk of evictions and, in worst cases, homelessness. There are numerous accounts of individuals unable to access TSA who set up "tent cities" or who later needed emergency hospital care after returning to mold-infested homes. Families were pushed into homelessness because they had no place to go.

Despite the clear need, FEMA has refused to activate DHAP under the Trump administration, rejecting requests by Governors, dozens of members of Congress, survivors, and advocates.

In addition to short-term recovery programs like DHAP, improvements can be made to ensure that long-term recovery programs, like CDBG-DR, provide resources to disaster survivors more quickly, efficiently, and with larger impact.

The lack of formal authorization of the CDBG-DR and CDBG-MIT programs contribute to further delays. Without authorization, HUD must operate program funding through separate Federal Register notices after every major disaster, causing uncertainty for grantees. While most of the allocation notice is repeated from disaster to disaster, each notice is different. Because grantees cannot anticipate the details in the allocation notice, they are often unable to put together action plans until the notice has been issued and reviewed. According to an audit by HUD's Office of Inspector General, between 2005 and 2018, HUD issued 60 Federal Register Notices

that grantees must consult when developing their CDBG-DR action plans, slowing down the process.<sup>7</sup>

After a HUD allocation notice is issued, an impacted jurisdiction must develop a disaster recovery action plan to receive funding. While jurisdictions often begin work on the plan in expectation of the allocation notice, the plan is not formally released until the notice is out. Once submitted, the approval process typically has been quick, but there are exceptions. The approval period has ranged from nine weeks after the allocation notice for Hurricane Katrina and five weeks after Superstorm Sandy to more than eight months after Hurricane Maria.

Delays in the CDBG-DR program are exacerbated when FEMA prematurely ends its response and recovery assistance. While FEMA programs are authorized for 18 months following a major disaster declaration, in recent years, FEMA has ended programs well before the statutory expiration and before CDBG-DR assistance programs can be implemented. As a result, too many of the lowest-income and most marginalized disasters survivors lose access to urgently needed FEMA assistance before their homes and communities have been rebuilt. Without access to affordable, accessible homes, many of these households face increased housing instability and, in worst cases, homelessness.

By permanently authorizing the program, Congress can dramatically cut the amount of time it takes for this important funding to reach disaster survivors and ensure that homes can be rebuilt quickly, alleviating additional strain on local housing markets that drive up rent. At the same time, it can cement safeguards currently in place to further ensure that the funds are used to first serve those most in need of assistance. Permanent authorization of the CDBG-DR program is supported by HUD leadership<sup>8</sup>, HUD's Office of Inspector General (OIG),<sup>9</sup> and the Government Accountability Office (GAO).<sup>10</sup>

<sup>7</sup> U.S. Department of Housing and Urban Development Office of Inspector General. (2018). Office of Block Grant Assistance, Community Development Block Grant Disaster Recovery Program Audit. Retrieved from: <https://www.hudoig.gov/sites/default/files/documents/2018-FW-0002.pdf>

<sup>8</sup> Secretary Carson testimony, U.S. House Committee on Financial Services, Subcommittee on Oversight and Reform hearing, "Oversight at the Department of Housing and Urban Development", June 27 2018, available at: <https://www.youtube.com/watch?v=w5KQMYJOUew>

<sup>9</sup> U.S. Department of Housing and Urban Development Office of Inspector General. (2018). "HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program," p. 1. Retrieved from: <https://www.hudoig.gov/sites/default/files/documents/2018-FW-0002.pdf>

<sup>10</sup> U.S. Government Accountability Office (GAO). (2019). Disaster recovery: Better monitoring of block grant funds is needed. Retrieved from: <https://www.gao.gov/products/gao-19-232>

**Question 3: And your testimony also mentioned that federally assisted affordable housing is slow to be rebuilt, if at all, after a disaster. What are some top reforms that would better prioritize quick rebuilding of affordable housing?**

NLIHC and its Disaster Housing Recovery Coalition support the [Reforming Disaster Recovery Act](#), (H.R. 4707, S2471) introduced by Representatives Al Green (D-TX) and Senators Brian Schatz (D-HI) and Todd Young (R-IN), as a first start towards ensuring a more equitable disaster recovery.

If enacted, the Reforming Disaster Recovery Act would permanently authorize the CDBG-DR program to provides states and communities with the flexible, long-term recovery resources needed to rebuild affordable housing and infrastructure after a disaster. In doing so, the bill would direct HUD to establish permanent, consistent regulations for CDBG-DR, instead relying on its current case-by-case notice approach. The bill also provides important safeguards and tools to help ensure that federal disaster recovery efforts reach all impacted households, including the lowest-income seniors, people with disabilities, families with children, people experiencing homelessness, and other individuals who are often hardest-hit by disasters and have the fewest resources to recover. Permanent authorization of the CDBG-DR program is supported by HUD leadership<sup>11</sup>, HUD's Office of Inspector General (OIG),<sup>12</sup> and the Government Accountability Office (GAO).<sup>13</sup>

While CDBG-DR is often one of the only recovery tools available to the lowest-income disaster survivors, vital resources have been diverted after past disasters from the people and communities with the greatest needs and for whom the program was designed to serve. The Reforming Disaster Recovery Act would help ensure that limited disaster recovery funds reach the most vulnerable survivors, that the best available data is being used to direct the funding, protect the civil rights of disaster survivors, and that disaster survivors have a meaningful say in where and how the funds are spent.

<sup>11</sup> Secretary Carson testimony, U.S. House Committee on Financial Services, Subcommittee on Oversight and Reform hearing, "Oversight at the Department of Housing and Urban Development", June 27 2018, available at: <https://www.youtube.com/watch?v=w5KQMYJOUeW>

<sup>12</sup> U.S. Department of Housing and Urban Development Office of Inspector General. (2018). "HUD's Office of Block Grant Assistance Had Not Codified the Community Development Block Grant Disaster Recovery Program," p. 1. Retrieved from: <https://www.hudoig.gov/sites/default/files/documents/2018-FW-0002.pdf>

<sup>13</sup> U.S. Government Accountability Office (GAO). (2019). Disaster recovery: Better monitoring of block grant funds is needed. Retrieved from: <https://www.gao.gov/products/gao-19-232>

