

**Testimony of Sarah Saadian,  
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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;

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<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>

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<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

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<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

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<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

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<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>

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<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

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<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-response7>

<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

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<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.

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<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.

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<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/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 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

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<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.

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<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.

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<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://communitytp.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

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<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%202030.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

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<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 disasters 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.