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“Ensuring Equitable Delivery of Disaster Benefits to Vulnerable Communities and Peoples: An Examination of GAO’s Findings of the CDBG Program”

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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 and Ranking Member Emmer for the opportunity to testify before you today on ways to ensure that our nation’s disaster rebuilding 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.

NLIHC is dedicated solely to achieving racially and socially equitable public policy that ensures people with the lowest incomes have quality homes that are accessible and affordable in communities of their choice. NLIHC leads the DHRC, a coalition 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. Together, 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 comprehensive disaster housing recovery recommendations for Congress,ⁱ the Federal Emergency Management Agency (FEMA),ⁱⁱ and the U.S. Department of Housing and Urban Development (HUD).ⁱⁱⁱ

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 disasters, worsening the housing crisis, solidifying segregation, and deepening inequality.

The Community Development Block Grant-Disaster Recovery (CDBG-DR) and Community Development Block Grant-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 prevent 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 programs were 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 the worst case, 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, long-term recovery 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 entrench racial disparities.

In this testimony, I will discuss key barriers to equitable and comprehensive disaster housing recovery and opportunities to reform CDBG-DR to ensure these resources are deployed quickly, equitably, and effectively. These barriers^{iv} and opportunities for reform^v 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.^{vi}

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 ensured fair assistance to full and prompt recovery through transparent and accountable programs and strict compliance with civil rights laws, with survivors directing the way assistance is provided;
3. Processes for securing help from the 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;
6. Renters and anyone experiencing homelessness before a disaster must be provided quickly with quality, affordable, accessible apartments in safe, quality neighborhoods of their choice;
7. All homeowners should be able to rebuild without delay 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.

I will also discuss Chairman Green’s “Reforming Disaster Recovery Act” and the urgent need for its quick enactment.

II. Barriers to 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, decisions about disaster relief funds are 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 (after the terrorist attack on September 11) to more than eight months (after Hurricane Michael),^{vii} or even longer. Congress waited more than a year to approve CDBG-DR funds for some disasters that occurred in 2020, such as the Iowa derecho and Hurricane Laura.

The lack of formal authorization of the CDBG-DR and CDBG-MIT programs contributes to further delays. Without authorization, HUD operates program funding through separate *Federal Register* notices after every major disaster, causing uncertainty for grantees. While some content of the allocation notices is repeated in the notices issued from disaster to disaster, each notice for every disaster is different. Because grantees cannot anticipate the details in the allocation notice, these grantees are often delayed in creating action plans. According to an audit by HUD's Office of Inspector General, between 2005 and 2018, HUD issued 60 *Federal Register* notices for grantees to consult when developing CDBG-DR action plans, slowing down and overcomplicating the process.^{viii}

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 issued. Once submitted, the approval process is typically quick, but there are exceptions. HUD's approval period has ranged from five weeks (following Superstorm Sandy) to more than eight months (following Hurricane Maria).

The impact of delayed CDBG-DR assistance is 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 are operational. Many of the lowest-income and most marginalized disaster survivors lose access to urgently needed FEMA assistance before their homes and communities have been rebuilt with CDBG-DR funds.

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 New Jersey for its regular

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 times when their own communities are in crisis.

State and local grantees also often struggle to provide proper oversight of contractors, on whom grantees rely for everything from debris removal to the 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 fail to perform or to underperform on their agreements with state and local grantees. After Superstorm Sandy, for example, New Jersey awarded a \$68 million contract for the implementation of the largest housing-recovery program in the state: the more than \$1 billion Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) program.^{ix} But after just seven months – and after having paid the bulk of the contract fees to the contractor – the state cancelled the contract and took control of the program. Lower-income residents had complained of lost applications, officials telling them incorrectly 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. As a result, many applicants in need of recovery funds dropped out of the program. Nearly every CDBG-DR grantee has had similar experiences.

Lack of Data Transparency

Faulty Needs Assessments

The foundation of many federal, state, and local disaster-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. These data, however, frequently underestimate the needs of the lowest-income survivors, leading to fewer resources in communities where they are needed most.^x The same data are used to assist in targeting CDBG-DR funds.

After Superstorm Sandy, New Jersey created a housing-recovery program premised on the assumption 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 Black or Latino, whereas only 16% of impacted homeowners were Black or Latino. As a result, the recovery housing program was found to discriminate by race and ethnicity by under-allocating resources to renters of color.

In addition to skewed data, methodologies for assessing “unmet need” under CDBG-DR can also lead to inequitable outcomes. Unmet need assessments are critical to how long-term recovery funds are distributed and targeted and how equitably an impacted area recovers. Despite its importance, “unmet need” is ill-defined and often determined with unreliable data. Using FEMA personal property loss data as a proxy of unmet need, for example, underestimates the damage to rental housing, particularly in lower-income areas where there are lower values of personal property per household.

After Hurricane Harvey, grantees were charged with determining how CDBG-DR funds would be distributed, using a HUD methodology and FEMA Individual Assistance (IA) data to quantify the housing impact of the storm. After these funds were distributed to the regional Councils of Governments (COGs), an additional formula was used to distribute the funds locally. Outside the Houston metropolitan area, the COG used storm severity as its sole indicator of need but failed to utilize any data at all on the storm's impact. As a result, the lowest-income areas, including predominantly Black communities like Port Arthur and Northeast Houston, were provided fewer resources, compounding challenges already faced by these underinvested and segregated communities. In this way, damage assessments and funding awards based on property value steer funding to higher-income and white communities, increasing the racial wealth gap.^{xi} After successive disasters in Houston between 1999 and 2013, for example, the Black-white wealth gap in the city increased on average by \$87,000 per person.^{xii}

Inadequate Data Capacity

While HUD does require grantees to collect certain information on the recipients and beneficiaries of CDBG-DR funding, the type and specificity of the data collected prevent a detailed analysis of whether recovery programs are equitable. Grantees are required by HUD to collect aggregate information on housing-program applicants, such as data on applicants' gender, race, and ethnicity, but this information is not made publicly available. While grantees often collect additional information on age, disability, and primary language, HUD does not uniformly collect data beyond the minimum requirements, nor does HUD uniformly require that such data be collected, restricting the data's comprehensiveness and preventing equity analyses.

Researchers would gain a better understanding of equity in CDBG-DR spending if HUD collected more granular data. Address-level data would help researchers better understand spatial inequities within the CDBG-DR program, such as whether recovery dollars are more often spent in majority-white neighborhoods as opposed to majority-Black and brown neighborhoods.

Recovery and Mitigation Favor Higher-Income, White Communities

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.^{xiii} In general, federally assisted affordable housing continues to be located in such at-risk areas, forcing the lowest-income households into 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.

Federally assisted affordable housing is also more likely than market-rate housing to be located in areas with high natural hazard risks. 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.^{xiv} The households residing in these higher-risk units are made up predominantly of 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 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. State and local governments will often endeavor only to meet the minimum program requirements and direct funds for mitigation projects to higher-income communities when possible.

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 to 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. This neglect disproportionately affects those who already 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: the creation of two distinct communities – 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 private-investor real-estate speculation, the result of wealth disparities brought about by decades of public policy intended to distribute different resources and opportunities based on race. But recovery programs themselves can also actively contribute to displacement.

In Houston, redlining and city planning rooted in segregationist principles have increased flooding threats to communities of color by concentrating segregated neighborhoods in areas with outdated infrastructure unable to handle flooding events like Hurricane Harvey.^{xv} In Miami, speculators have begun adjusting to rising seas and the increasing frequency of hurricanes,^{xvi} much to the detriment of low-income communities of color.^{xvii} 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, the 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 recover fully. When survivors are unable to rebuild their homes or find affordable rental housing, they may face displacement.

Moreover, recovery programs themselves may also 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 flaw 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.^{xviii} While regulations and HUD allocation notices are provided only 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 often lack staff translators. Even when materials are translated, they sometimes provide inaccurate information, such as incorrect application deadlines.

Guidance released in 2016 makes it clear that federal language access requirements apply to disaster recovery activities.^{xix} Practices have yet to adhere fully to these requirements, however. For example, in a particularly egregious recent episode, a Puerto Rico CDBG-DR program released housing policies aimed at homeowners in English, translating the policies into Spanish only after an outcry from advocates.

Discrimination against Individuals with Disabilities

Disaster survivors with disabilities need physical, program, and communication access, but such access is not consistently provided, leaving many survivors' long-term recovery needs overlooked. 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 schools with disability resources are forced to care for their children instead of working. Full disaster recovery cannot occur until everyone, including those with disabilities, can access stable housing and return to work or school.

The effects of a natural disaster can be intensified by the specific characteristics of a disability, as well as by other sources of societal inequality and marginalization, such as those related to

race, class, gender, sexual identity, and legal status. Some disabilities are also temporary or fluctuate, especially in periods marked by the stress and connected health risks that accompany a disaster. Disability-disaster response requires understanding the many kinds of disabilities and their relationship to societal inequities.^{xx}

Fair Housing Violations

Federal statutes, regulations, 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 its 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.^{xxi}

HUD has under-enforced these laws for decades. This neglect is also demonstrated by HUD’s approval of CDBG-DR state action plans that have been blind to impacts on housing access, housing availability, and mobility, as well as 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 include built-in violations of civil rights law. For example, HUD has approved plans that aid homeowners based upon discriminatory property values, underassess the number of renters affected by a disaster, or favor homeowners over renters. HUD has the authority to reject CDBG-DR action plans that do not provide for implementation of civil rights protections.^{xxii} Yet HUD has failed to exercise such authority in the vast majority of cases, relying instead on certifications rather than the actual language and substance of the grantee draft plans.^{xxiii}

We support HUD’s recent decision to reject the Action Plan submitted by the Texas Government Land Office (GLO) allocating mitigation funds received during the Hurricane Harvey recovery. Texas’s Action Plan relied on a grant competition process that resulted in funds being distributed in a discriminatory fashion, prompting several civil rights complaints from Texas housing advocates.^{xxiv} Responding to these allegations, HUD rightfully paused the grant allocation process to allow the GLO to rectify the issue.^{xxv} This is a welcome development by HUD, and we urge the agency to continue to use its authority in the future to reject discriminatory action plans.

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, advocates already overburdened with assisting disaster-stricken communities have been tasked with enforcing fair housing laws and holding HUD accountable. The largest-ever federal fair housing settlement came about through a complaint brought by Fair Share Housing Center of New Jersey, the New Jersey Latino Action Network, and the New Jersey State Conference of the NAACP. The

settlement created 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 operating in the wake of Hurricanes Katrina, Ike, and Dolly also achieved major fair housing victories. However, relying on local advocates to ensure compliance with federal protections rather than on clear rules enforced by HUD assumes that resources exist for prolonged legal battles. Even when they can be fought, such battles further delay the recovery process by entangling it in lengthy litigation.

Negative Impact on the Housing Crisis

According to NLIHC's annual report *The Gap: A Shortage of Affordable Rental Homes*, those U.S. households with the lowest incomes face a shortage of 7 million affordable and available rental homes.^{xxvi} In certain metropolitan areas, the supply of affordable, available rental housing can be as low as one 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 the worst case, 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 and 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 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, for example. As a result, rents have increased rapidly in areas already 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%.^{xxvii}

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. Local advocates report that landlords have evicted tenants without cause to make room for new tenants willing and able 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 a 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 consider their ongoing obligations to construct accessible housing and public buildings in accordance 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 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 frequently failed to provide adequate notice of a draft action plan's publication, properly announce public meetings, and provide drafts or related documents in languages other than English. HUD has historically waived standard CDBG participation requirements, which include a public hearing and a 30-day comment period, and has allowed comment periods 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 decisions about the relocation of residents, have been made by CDBG-DR grantees without input from residents directly impacted by those decisions. As a result, policies have ranged from one extreme to another. 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. 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, providing further evidence of the disaster-recovery system favoring higher-income people. 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.^{xxviii}

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.

Lack of Action Plan Transparency

It is often difficult and sometimes impossible for the public and community groups to access the data on which a state's action plan was based. 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. After Hurricane Maria, the Puerto Rico government withheld mortality data from public view.^{xxxix} Information on the number of repaired homes and applications being processed, as well as other important data, were difficult to access as recovery progressed. The lack of transparency prompted advocates to file Freedom of Information Act requests and urge the territory to make disaggregate data available to the public.^{xxx} While the Puerto Rico government has since implemented an information dashboard accessible to the public, crucial information – such as the number of blue tarp roofs left on the island – remains difficult to access.^{xxxi}

Reliance on Out-of-State Contractors rather than Local Workers

Overreliance on Outsourcing Contracts

Because of the extraordinary challenges faced by local governments during recovery operations, CDBG-DR grantees often 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 have applied for and been awarded contracts for subsequent disaster 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 one company with staff under investigation by the FBI for corruption and another that was 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 need to participate in recovery efforts.^{xxxii}

Missed Opportunities for Local Job Creation

Section 3 of the Housing and Urban Development Act of 1968 aims to direct federally funded employment, training opportunities, and contracts to low- and very low-income people, as well as local minority-controlled businesses.^{xxxiii} 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, a grantee can exempt projects or contracts below a certain size or cost. Entities purportedly subject to Section 3 tend simply to submit an annual statement to HUD stating they have done their best with limited results. Because disaster recovery brings large amounts of funding into communities struggling with unexpected job losses, failing to enforce Section 3 or other local-hire requirements more stringently results in significant missed opportunities for local job creation.

III. Solutions for Equitable Housing Recovery Available to HUD

Rebuilding Equitable Communities

Dismantling Segregation and Reducing Inequity

During disaster recovery, communities of color and other marginalized communities either return to a segregated “normal,” or 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. As rebuilding and mitigation resources are directed towards historically disinvested communities, case-management services and housing counselors can also support displaced households that wish to relocate into neighborhoods of their choice, including neighborhoods that offer resources, good-paying jobs, higher-performing schools, and other benefits.

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 should be sited in a manner that decreases segregation and protects against harm by future disasters. This should apply not only to rebuilding homes but also to infrastructure and community development efforts, allowing communities themselves to direct how best to fight inequality and segregation.

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 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. State and local governments continue to divert infrastructure recovery resources away from poorer communities of color toward higher-income, white communities.^{xxxiv} 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.

Increasing Accessible Housing for People with Disabilities

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.^{xxxv} If a community has little or 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 schools 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, ensuring the disaster recovery will include everyone.

Rebuilding Homes

Equitable Approaches to Rebuilding Homes

Because of the growing affordable housing crisis, America's lowest-income households are threatened with homelessness and displacement after a disaster when rental housing supply is lost. For this reason, long-term housing recovery programs should first prioritize the housing needs of people with the lowest incomes, including individuals who have been displaced or involuntarily institutionalized. Congress should provide special allocations of resources to funds and programs 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 to ensure a minimum affordability period of 30 years.

New affordable housing must 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. Ensuring that housing can meet the challenges of future disasters also depends on where it is built. A significant amount of newly constructed housing should be located outside of areas susceptible to disaster damage and be made first available to households displaced by disasters.

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 navigating them. Under the current disaster housing recovery framework, a substantial lag typically exists between the conclusion of a FEMA disaster assistance program and the initiation of HUD's long-term recovery program.^{xxxvi} Without access to temporary housing, many low-income disaster survivors are forced into homelessness. To prevent this from happening, disaster housing assistance must be provided to survivors for as long as needed, without gaps 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 for just a few days, can cause significant mental harm to members of households that have already been displaced by a disaster.^{xxxvii} 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.

Ensuring Data Transparency

Increasing Data Collection

HUD currently requires CDBG-DR grantees to collect basic equity information on program recipients and beneficiaries, but this information is not made publicly available. HUD must expand its aggregate data collection to include information such as disability and age and release these data on a quarterly basis. By uniformly collecting more detailed demographic data on applicants, including information about disability, age, race and ethnicity, and other identifiers, a broader equity analysis can be conducted.

In addition to aggregate data, granular address-level data must be collected. These data will help researchers better understand where funds are being spent at the neighborhood level and will thereby sharpen equity analysis. HUD must begin to collect such granular data from CDBG-DR grantees.

As stated earlier, and recently addressed by the GAO, HUD currently lacks the capacity to collect the granular data needed to analyze equity in CDBG-DR-funded programs.^{xxxviii} As such, any attempt to increase the level of data collection must be accompanied by resources to increase capacity at the agency. As explained below, the “Reforming Disaster Recovery Act” would help increase the agency’s capacity to accomplish this task, allowing HUD to require grantees to record more information about recipients and beneficiaries of CDBG-DR funds.

HUD currently releases generalized CDBG-DR data incrementally. In the future, when the agency increases its capacity to collect and aggregate additional data, HUD should issue anonymized data on a quarterly basis to identify potential equity issues with recovery spending and allow time for grantees to change course and improve programs.

Improving Access to Granular Data for Academic Institutions

HUD has significant experience in facilitating data sharing processes with academic and research institutions for its other housing programs, but no such system exists for disaster-recovery data. To produce meaningful analysis, identify best practices, and ensure greater equity in disaster recovery, HUD should create a standard process for sharing granular, personally identifiable disaster-recovery data with researchers. HUD should utilize its experience in the area to ensure that personally identifiable disaster recovery data can be safely shared with academic and research institutions, ensuring that independent analysis of disaster recovery programs can be conducted and that research within the overall field can continue. Without a clear process to share personally identifiable data with third-party researchers and without the capacity to handle such data on its own, HUD will continue to face problems tracking equity within CDBG-DR programs.

IV. Government Accountability Office (GAO) Recommendations

In its November 2021 report, “Disaster Recovery: Better Data Are Needed to Ensure HUD Block Grant Funds Reach Vulnerable Populations (GAO-22-104452),” the Government Accountability Office (GAO) makes several recommendations aimed at improving the CDBG-DR program. These recommendations are well-aligned with those made by NLIHC and the DHRC.

NLIHC agrees with the GAO’s recommendations related to increasing data transparency and equity. To better assess whether CDBG-DR funds are effectively reaching survivors with the greatest needs, the GAO states that “HUD and grantees must collect, analyze, and make public additional demographic data.” In particular, the GAO recommends that HUD and grantees collect and make public information about both the beneficiaries of disaster recovery funds and those who apply for assistance.

In particular, the GAO recommends collecting data on the race, ethnicity, disability status, language preference, and other characteristics of program applicants and beneficiaries. In doing so, the federal government can “disaggregate data according to demographic or other relevant characteristics,” which “can aid in highlighting significant variation, which can help pinpoint problems and identify solutions.” Citing NLIHC, the GAO notes that “data transparency is critical to helping public and private entities better identify gaps in disaster recovery services” and observes that “in the past, a systemic lack of data transparency has made it more difficult to target and distribute aid to those most in need.” Data transparency and an increased focus on equity must be central to any efforts to reform the CDBG-DR program.

NLIHC disagrees with HUD’s position that implementing the GAO’s recommendation related to data transparency and equity requires that the department first consider conducting a pilot program to “assess the value.” In Executive Order 13985: [Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), President Biden directs all federal agencies to “access whether, and to what extent, [their] programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups.” In issuing the order, the president expressly recognizes the centrality of data collection, noting that many federal datasets are not disaggregated by race and other key demographic variables. According to the president, “this lack of data has cascading effects and impedes efforts to measure and advance equity” and “[a] first step to promoting equity in Government action is to gather the data necessary to inform that effort.” NLIHC agrees and urges HUD to implement the GAO’s recommendation quickly.

The GAO identifies barriers that often prevent the lowest-income and most marginalized survivors from achieving a complete and equitable recovery – barriers identified by NLIHC and the DHRC in this testimony and in recent publications. The GAO notes that using FEMA Individual Assistance data to determine unmet needs underestimates the needs of low-income communities and communities of color, as discussed in the testimony above. The report also argues that disability status, language barriers, and the lack of access to internet services can prevent survivors from receiving CDBG-DR resources. Burdensome documentation requirements and confusing applications also serve as barriers for survivors. It is critical that

Congress and HUD use every opportunity to eliminate these barriers and ensure that survivors with the greatest needs can access the resources needed to recover fully.

Like NLIHC, the GAO recommends that Congress permanently authorize the CDBG-DR program. According to the GAO, permanent authorization would “provide a more consistent framework for administering funds. Among other things, such a statute and associated regulations could clearly define requirements for grantees to serve vulnerable populations with program funds.”

As outlined below, the Reforming Disaster Recovery Act directly addresses the recommendations made by the GAO.

V. The Reforming Disaster Recovery Act

NLIHC and its DHRC support the Reforming Disaster Recovery Act, introduced by Chairman Al Green (D-TX) and Senators Brian Schatz (D-HI), Susan Collins (R-ME), Todd Young (R-IN), Patrick Leahy (D-VT), and Bill Cassidy, M.D. (R-LA).

If enacted, the bill would permanently authorize the CDBG-DR program, which provides states, tribes, and communities with flexible, long-term recovery resources needed to rebuild affordable housing and infrastructure after a disaster. The bill would also provide important safeguards and tools to help ensure that federal disaster recovery efforts reach all impacted households, including the lowest-income and most marginalized survivors, who are often hardest-hit by disasters and have the fewest resources to support recovery.

Permanent authorization of the CDBG-DR program is supported by HUD leadership,^{xxxix} HUD’s Office of Inspector General (OIG),^{xl} and the Government Accountability Office (GAO),^{xli} among others.

Quickly Targeting Resources to Those with the Greatest Needs

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

The Reforming Disaster Recovery Act would:

- Create a standing disaster recovery fund that can quickly disperse initial recovery funding to disaster-stricken areas without waiting for congressional approval;
- Develop a formula to more quickly allocate and target assistance to the most impacted and distressed areas resulting from a catastrophic major disaster;
- Require that the use of federal recovery funds is balanced between rebuilding infrastructure and housing;
- Ensure that housing funds are divided proportionally between homeowners and renters unless HUD determines that there is a compelling need;

- Require states to prioritize activities that help extremely low-, low-, and moderate-income survivors recover, address pre- and post-disaster housing needs, and prepare for future disasters; and
- Maintain the current requirement that 70% of federal recovery funds benefit low- and moderate-income people and provide clearer direction to HUD on when it can adjust this requirement.

Prioritizing Data Transparency and Oversight

After past disasters, the lack of federal data transparency has 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 and private entities better recognize gaps in services and identify reforms needed for future disaster recovery efforts.

The Reforming Disaster Recovery Act would:

- Require federal agencies to share all data to help coordinate disaster recovery;
- Require HUD to make available a public-facing dashboard summarizing project data;
- Ensure that state action plans include at least 14 days for public comment and require states to engage with residents of the most impacted and distressed areas; and
- Require states to include detailed plans outlining how they will use CDBG-DR funds to serve low- and moderate-income households and how these dollars will address relief, resiliency, long-term recovery, and restoration of housing and infrastructure in the most impacted and distressed 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.

The Reforming Disaster Recovery Act would:

- Require state and local governments to certify that funds will be administered in compliance with fair housing and civil rights laws;
- Require 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; and
- Authorize 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.

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 would help ensure that communities are better able to maintain vital services during and directly after a disaster and thereby recover more efficiently.

The Reforming Disaster Recovery Act would:

- Establish 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;
- Create specific minimum construction standards for areas designated as Hazard-Prone by HUD and FEMA;
- Provide grantees with additional resources for mitigation; and
- Encourage states to better align federal recovery funding with existing state and local infrastructure investments.

VI. 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. The Reforming Disaster Recovery Act would allow for important progress towards these goals and should be advanced and quickly enacted by Congress.

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

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