



NATIONAL LOW INCOME
HOUSING COALITION



FIXING AMERICA'S BROKEN DISASTER HOUSING RECOVERY SYSTEM

PART ONE:

BARRIERS TO A COMPLETE AND EQUITABLE RECOVERY

SARAH SAADIAN MICKELSON

NLIHC Senior Policy Director

NOAH PATTON

NLIHC Housing Policy Analyst

ADAM GORDON

Fair Share Housing Associate Director

DAVID RAMMLER

Fair Share Housing Consulting Attorney

INTRODUCTION

America's disaster housing recovery framework is broken and in need of major reform. When disasters strike, the lowest-income survivors – including people of color, seniors, people with disabilities, people experiencing homelessness, people with limited English proficiency, and other individuals – are often hardest hit and have the fewest resources and face the longest, steepest path to recovery.¹ Despite the clear need, federal efforts frequently leave these survivors without the assistance needed to get back on their feet and their communities less resilient to future disasters. The result is a disaster housing recovery framework that exacerbates and reinforces racial, income, and accessibility inequities at each stage of response and recovery.

Emergency planning and response efforts minimize or ignore the needs of the lowest-income households, leaving too many survivors – notably people with disabilities, people experiencing homelessness, immigrant communities and people with limited English proficiency – vulnerable to serious injury and even death. After a disaster, the lowest-income survivors are unable to access the stable, affordable, and accessible homes and resources they need to recover and, as a result, they often have no choice but to return to uninhabitable homes, sleep in cars or at shelters, double- or triple-up with other low-income families, or pay more than half of their limited incomes on rent, putting them at increased risk of displacement, eviction, and, in worst cases, homelessness. Federal mitigation and recovery efforts often continue a decades-long legacy of underinvesting in low-income communities and communities of color, ensuring that these neighborhoods lack the basic infrastructure to protect residents from disasters.

To address these systemic racial, income, and accessibility challenges, the National Low Income Housing Coalition (NLIHC) and the NLIHC-led Disaster Housing Recovery Coalition (DHRC) of more than 850 local, state, and national organizations will host a policy convening October 28-30, 2019 to bring together key stakeholders to reimagine a new federal disaster housing response and recovery framework centered on the needs of the lowest-income survivors and their communities.

At the convening, stakeholders will identify new ways to design a disaster housing response and recovery system that ensures a complete and equitable recovery for our nation's most vulnerable and lowest-income disaster survivors. Stakeholders include experts in housing, homelessness, fair housing and civil rights, legal services, research, disability rights, and other sectors to ensure that policy solutions are intersectional and inclusive. Policy recommendations developed at the convening will be shared with federal policymakers, state and local partners, and other advocates, and they will serve as a guidepost for the DHRC's long-term policy goals.

PARTICIPANTS AT THE CONVENING WILL WORK TO ENSURE THAT ALL POLICY RECOMMENDATIONS REFLECT THE CORE PRINCIPLES OF THE DISASTER HOUSING RECOVERY COALITION:

- Recovery is centered on survivors with the greatest needs and ensures equity among survivors, especially for people of color, low-income people, people with disabilities, immigrants, LGBTQ people, and other marginalized people and communities;
- Everyone is 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;
- Securing help from government is accessible, understandable, and timely;
- Everyone in need receives safe, accessible shelter and temporary housing where they can

1 Ratcliffe, C., Congdon, W. J., et. al., (2019). *Insult to Injury*. Urban Institute.

reconnect with family and community;

- Displaced people have access to all the resources they need for as long as they need to safely and quickly recover housing, personal property and transportation;
- Renters and anyone experiencing homelessness before the disaster can quickly get quality, affordable, accessible rental property in safe, quality neighborhoods of their choice;
- All homeowners can quickly rebuild in safe, quality neighborhoods of their choice;
- All neighborhoods are free from environmental hazards, have equal quality, accessible public infrastructure, and are safe and resilient; and
- Disaster rebuilding results in local jobs and contracts for local businesses and workers.

This paper - drafted primarily by NLIHC and DHRC member Fair Share Housing Center of New Jersey with additional contributions by DHRC members Texas Housers and the Community Justice Project - sets the stage for the policy convening by identifying key barriers to an equitable and complete housing recovery at each of the four stages of disaster housing response and recovery: (1) emergency planning and response, (2) post-disaster housing needs, (3) long-term recovery, and (4) mitigation and resiliency. The paper is largely based on the experience of DHRC members, including many working directly with disaster-impacted communities and with first-hand experience recovering after disasters. By identifying the failures of the current disaster housing response and recovery framework, this paper can help ensure robust policy discussions at the convening focused on developing a new vision for disaster housing recovery - a vision that places the housing needs of the lowest-income survivors, including people of color, people with disabilities, and others, at its center.

Our proposed redesign of the nation's disaster housing recovery framework to one that allows for an equitable and complete recovery will be published in early 2020.

ABOUT THE DISASTER HOUSING RECOVERY COALITION

NLIHC leads the [Disaster Housing Recovery 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. We work to ensure that federal disaster recovery efforts reach all impacted households, including the lowest-income seniors, people with disabilities, families with children, veterans, people experiencing homelessness, and other at-risk populations who are often the hardest-hit by disasters and have the fewest resources to recover afterwards.

TABLE OF CONTENTS

4 EMERGENCY PLANNING AND RESPONSE

- 4 Unrealistic Expectations
- 5 Lack of Communication
- 5 Challenges for At-Risk Populations

7 POST-DISASTER HOUSING AND OTHER NEEDS

- 7 FEMA Assistance Favors Middle-Class Survivors, Not Those with the Greatest Needs
- 10 FEMA's Systemic Lack of Transparency
- 11 FEMA's Inability to Adjust to New Conditions

12 LONG-TERM RECOVERY

- 12 Unnecessary Delays in the Rebuilding Process
- 13 Long-Term Recovery Favors Higher-Income, White Communities
- 17 Impact on the Housing Crisis
- 18 Lack of Community Feedback and Participation
- 19 Local Contractors and Workers Left Behind

21 MITIGATION AND RESILIENCY

- 21 Pre-Disaster Mitigation Challenges

22 CONCLUSION

EMERGENCY PLANNING AND RESPONSE

Emergency planning and response efforts have largely failed to fully recognize and incorporate the needs of the lowest-income survivors, including seniors, people of color, people with disabilities, families with children, people experiencing homelessness, people with limited English proficiency, undocumented immigrants, and others, resulting in devastating impacts on disaster survivors.² These challenges date back beyond the disastrous efforts to evacuate New Orleans in 2005 to the recent stranding of Puerto Ricans without food, water, or shelter after Hurricane Maria in 2017.

After Hurricane Katrina, mandatory evacuations were ordered for a population of low-income residents – predominantly African Americans – that disproportionately lacked access to personal vehicles. Individuals without internet or phone access were left stranded without knowledge of where to go or what to do. Individuals with accessibility needs were forced to struggle through rising waters or simply stay put and hope for later rescue. While the stories of heroism by ordinary people commandeering vehicles or using their own to attempt to save who they could are heartening, they represent a profound failure of disaster planning and demonstrate the absolute necessity of including the needs of the most vulnerable survivors in disaster plans.

Unfortunately, these failures continue today. During Hurricane Maria, low-income Puerto Rican survivors in shelters and rural villages were cut-off from the outside world for weeks with little access to potable water, food, or other aid, while more affluent areas were able to begin their recovery.

Failing to account for the needs of vulnerable disaster survivors directly impacts a disaster’s human toll. While some jurisdictions have drafted substantially improved accessible emergency plans, others have continued to ignore the problem.³ Without federal standards, disaster emergency response will continue to vary by jurisdiction, leading to increased danger for vulnerable survivors.

UNREALISTIC EXPECTATIONS

While FEMA provides technical assistance programs to assist in the creation of effective disaster assistance plans and to support training and education programs for comprehensive emergency management,⁴ advocates warn that many localities continue to focus their planning efforts on middle-class and white communities.⁵ According to these advocates, emergency planning and implementation frequently assumes that all residents have resources, education, and English language proficiency, as well as physical and psychological capabilities to acquire, understand, and perform necessary tasks during an emergency. Plans designed without recognition that this is not always the case could endanger the lives of residents.

For example, localities frequently expect residents to have the resources to acquire food, water, and other necessities to shelter in place for the duration of the storm and emergency response period. Residents are expected to obtain the necessary plywood and nails and have the tools needed to prepare their homes for potential damage. During an evacuation, planners often presume residents have cars or bus fare, the city or region have enough buses, evacuation staging points are effectively and universally communicated, state-run information sources are trusted, and that residents will be able to return when they can safely do so. Local governments may assume private companies and businesses will officially close during storms, while many service industry businesses that employ low-income individuals stay open, forcing residents to stay in harm’s way despite calls for evacuation.

² DOJ guidance

³ LIU, AMY, et al., editors. *Resilience and Opportunity: Lessons from the U.S. Gulf Coast after Katrina and Rita*. Brookings Institution Press, 2011. JSTOR, www.jstor.org/stable/10.7864/j.ctt127x5f.

⁴ 44 CFR §360.1 et seq.

⁵ <https://grist.org/article/npr-investigation-finds-fema-aid-favors-the-rich-and-white/>

Experience has shown that many of the above expectations are simply not true for many of the lowest-income households that live in under-resourced communities, have a disability or limited English proficiency, or lack access to public information sources. Superstorm Sandy illustrated this trend: While much of New York City was able to regain a sense of normalcy following the storm, many low-income, elderly, and disabled residents – particularly people of color – in public housing buildings were stranded in their apartments for weeks.

Yet, in many ways, FEMA and other federal agencies reinforce these presumptions. In an op-ed in 2019, FEMA officials called on residents to maintain large savings accounts, as well as substantial cash on-hand, to be used in case of a disaster, with little or no recognition that many of the poorest residents do not have such resources.⁶

LACK OF COMMUNICATION

Low-income survivors are often not notified of an impending disaster.⁷ There is no requirement that emergency announcements appear in languages other than English, creating confusion among individuals with low English proficiency.⁸ In Puerto Rico, for example, FEMA struggled to find translators or provide basic forms in Spanish, the predominant language on the island. Although FEMA's internal regulations require the production of such documents, advocates have commonly expressed concern that forms distributed by the agency and its grantees are provided only in English or with few translated versions.

Communication of emergencies to the deaf and blind communities is often erratic despite requirements of the law. Emergency broadcasts in some states and localities feature no sign language interpreters or partially obscured interpretation that makes it difficult for a viewer to fully understand what information is being conveyed. In the 2019 storm season, the National Weather Service and National Oceanographic and Atmospheric Administration provided depictions of Hurricane Dorian's projected path in a visual format only, making it impossible for those with vision impairments to understand where the storm was headed.

Moreover, emergency communications tend to be highly centralized through government channels. To improve access to critical information, emergency planners should seek ways to decentralize communications, building formal relationships with existing networks of community-based organizations for more widespread and trusted dissemination.

CHALLENGES FOR AT-RISK POPULATIONS

Lack of Access for People with Disabilities

People with disabilities are twice to four times more likely to die or sustain a critical injury during a disaster than people without disabilities.⁹ Yet many emergency plans do not address how to reach those with disabilities during times of disaster. Instead, many local authorities rely on a neighbors-helping-neighbors approach that does not stand up well during times of crisis.

FEMA itself has been slow to roll out training products and other materials to assist local officials in taking care of the needs of individuals with disabilities during disaster emergency response. This lack of response at the federal level can result in local officials making the care of individuals with disabilities during disasters even less of a priority.

While the federal law, including the Americans with Disabilities Act and the Rehabilitation Act, prohibit discrimination against individuals with disabilities under any federal program including those for disaster preparation and response, practice has lagged.¹⁰ The Department of Homeland Security has published

6 <https://thehill.com/opinion/energy-environment/455391-fema-official-americans-need-to-start-saving-for-a-rainy-day#.XUQtSc0DkcF>

7 Fothergill, A., & Peek, L. A. (2004). Poverty and disasters in the United States: A review of recent sociological findings. *Natural hazards*, 32(1), 89-110.

8 Martín, C. (2019). Understanding US Housing Data in Relation to the 2017 Disasters. *Natural Hazards Review*, 20(3), 04019007.

9 Paul Timmons, "Disaster Preparedness and Response: The Special Needs of Older Americans," Statement for the Record, Special Committee on Aging, U.S. Senate, September 20, 2017, available at https://www.aging.senate.gov/imo/media/doc/SCA_Timmons_09_20_17.pdf.

10 29 U.S.C. § 794 et seq. (emphasis added)

accessibility and inclusion guidelines for state and local disaster planners, but these best practices are often overlooked, ignored or rejected.¹¹ Advocates from impacted areas frequently report that shelters and outreach and application centers are not accessible, available physical and mental health assistance is inadequate, and sign interpreters and other accommodations are not provided. People with disabilities whose only needs are the ability to get into a shelter and use its restrooms are often diverted to “special needs” or “medical shelters,” even if they do not require the level of care provided there.

The Department of Health and Human Services consistently issues waivers allowing states to send people with disabilities directly to nursing homes, which are not always the safest places of refuge in emergencies, fostering their involuntary institutionalization. During Hurricane Harvey, elderly residents in a Galveston, Texas nursing home were photographed with flood waters up to their waists¹² and 14 nursing home residents in the largely unregulated state nursing home industry died in 2017 from heat exhaustion when their facility lost power in Hurricane Irma.¹³

In some disaster-impacted areas, authorities have provided for the pre-registration of persons of limited mobility so they can be evacuated if necessary, and the officials have directed persons with disabilities to specific shelters, separate from general population shelters and away from their families and loved ones. At other times, people with disabilities may be directed away from shelters to hotels or other facilities. Residents assigned to hotels may have to buy and prepare their own food, which would otherwise be provided without charge at a large shelter. In addition to the financial challenges this presents, survivors with disabilities may not be physically or otherwise able to access grocery stores, or the markets that once existed may not be available after a disaster.

Barriers for People Experiencing Homelessness

Pre-disaster homeless populations are often excluded from, or face additional barriers to, shelters. During Hurricane Michael, individuals experiencing homelessness were not taken to general shelters, but were placed in specific shelters that were separate from the general evacuation shelters.¹⁴ Following Hurricane Irma, advocates reported that people experiencing homelessness prior to the disaster were forced to wear armbands and kept separated from other disaster survivors. These actions further stigmatize people experiencing homelessness and often bar them from the resources they need to stay safe during a disaster.

Challenges for Immigrant Populations

Many immigrant communities have a distrust of police and other local authorities due to targeting by immigration authorities. Often, this distrust results in them calling for help or assistance only as a last resort.

Among many other anti-immigrant actions, the Trump Administration recently moved to dramatically change the “public charge” rule that prevents individuals from gaining U.S. citizenship.¹⁵ Under the new rule, which goes into effect October 15, a person will be considered a public charge if they use one or more of an expanded list of public benefits. Although federal disaster aid benefits are not directly impacted, many recent immigrants may become less likely to seek out and utilize emergency disaster response services.¹⁶ While some FEMA assistance is available to individuals whose children are U.S. citizens, the administration’s recent move to reexamine the constitutional guarantee of birthright citizenship has also contributed to this drop in immigrant involvement in public programs.¹⁷

11 Recommendations for Emergency Managers for Improving the Delivery of Disaster Assistance to Disaster Survivors with Disabilities, March 2019, https://www.dhs.gov/sites/default/files/publications/adg-listening-sessions-recommendations_english_0.pdf.

12 Galveston Daily News, “Eighteen People Rescued from Flooded Assisted Living Facility”, August 27, 2017.

13 CNN, “Husband and Wife Among 14 Dead After Florida Nursing Home Lost A/C”, October 9, 2017.

14 <https://files.hudexchange.info/resources/documents/Send-Red-Not-Blue.pdf>

15 <https://www.nilc.org/wp-content/uploads/2019/09/Public-Charge-Policy-Changes-Key-Provisions-2019.pdf>

16 https://www.urban.org/sites/default/files/publication/100754/safety_net_access_in_the_context_of_the_public_charge_rule_1.pdf

17 <https://grist.org/article/heres-how-anti-immigrant-policies-hurt-hurricane-recovery/>

POST-DISASTER HOUSING AND OTHER NEEDS

FEMA programs provide a critical lifeline to help survivors recover from a disaster by providing temporary shelter and financial assistance and making basic structural repairs to homes. For most survivors, the most critical programs are FEMA's Individual Assistance (IA), Temporary Shelter Assistance (TSA), and companion programs, which are intended to provide rapid relief to meet immediate housing needs in the first few months after a disaster. Low-income survivors, however, face enormous barriers in accessing this assistance, and most households receive far less than what is needed to fully recover.¹⁸

FEMA ASSISTANCE FAVORS MIDDLE-CLASS SURVIVORS, NOT THOSE WITH THE GREATEST NEEDS

Limited Eligibility for FEMA Assistance

FEMA recovery programs tend to favor homeowners, not renters or people experiencing homelessness.

Unlike homeowners, renters cannot receive IA to cover the cost to repair structural damage to their homes. Renters can receive funds only for personal property damage. Many renters, and especially low-income renters with few possessions, do not even apply for IA. As rents rapidly increase after a disaster, the IA program becomes even more important for low-income survivors renting in the disaster area.

As described in further detail later in this paper, disincentives to apply for assistance and high denial rates not only limit immediate assistance for low-income survivors, but these factors also distort the entire disaster recovery process because IA application data is used to make funding determinations throughout the federal disaster recovery process. Recent federal legislation allowing states to use limited long-term recovery funds through the Community Development Block Grant-Disaster Recovery (CDBG-DR) program to help homeowners pay off Small Business Administration (SBA) home repair loans will also steer funds away from families with the most urgent needs, reducing the resources available to families who were not financially able to obtain SBA loans.

Small landlords are also not eligible for IA to repair their properties and must instead rely on limited insurance claim payouts or apply for loans from the SBA or private lenders. When faced with damage to their properties, many landlords either rehabilitate properties and subsequently charge higher rents or they cease to operate the property as rental housing.¹⁹ This leads to a loss of inexpensive housing stock at a time when demand is high.

Pre-disaster homeless populations are denied FEMA assistance outright. FEMA flatly denies any assistance to individuals who were experiencing homelessness before a disaster strikes, even if all their belongings were destroyed in the disaster. These individuals often do not have the resources to adequately prepare for or evacuate prior to a disaster. After a disaster, resources for individuals experiencing homelessness are stretched thin to accommodate those families who became housing insecure during the current disaster recovery process. Communities are often unable to return to the level of care provided to people experiencing homelessness before the disaster.

18 "It's not a safety net. The system is really designed for the middle class. It's not designed to take care of pre-existing conditions." Craig Fugate, former administrator of FEMA, quoted in, Danny Vinik, 'People Just Give Up': Low-Income Hurricane Victims Slam Federal Relief Programs, Politico (May 29, 2018), <https://www.politico.com/story/2018/05/29/houston-hurricane-harvey-fema-597912>

19 <https://www.aeaweb.org/conference/2019/preliminary/paper/YZ56f5b6>

FEMA's Failure to Address Housing Needs

By failing to activate the Disaster Housing Assistance Program (DHAP), FEMA has failed to address the housing needs of the lowest-income survivors. During past disasters, both Republican and Democratic administrations upheld DHAP as a best practice for disaster housing recovery. DHAP was created after hard-won lessons from Hurricane Katrina, and it has been used successfully in major disasters since that time.²⁰ Under DHAP, displaced families receive longer-term direct rental assistance and case management services provided by local housing professionals with extensive knowledge of the local housing market. This assistance helps families find permanent housing solutions, secure employment, and connect to public benefits as they rebuild their lives.

After recent disasters, FEMA has refused to activate the program and instead relied on TSA motel-stay program and other programs that are inaccessible to many low-income survivors. Low-income families are often unable to access TSA motels due to financial and other barriers, including the practice of motels charging daily "resort" fees and requiring security deposits or credit cards.²¹ Because TSA must be renewed every 14 days, those survivors who are able to access the program face arbitrary deadlines that cause them to scramble to submit required paperwork or leave the motel before finding a permanent housing solution. While FEMA is authorized to provide TSA for at least 18 months, the Trump administration abruptly terminated the program for dozens of Puerto Rican families displaced to the mainland after Hurricane Maria, forcing them to find alternative housing or to return to their uninhabitable homes on the island with just a few hours' notice. States that received large numbers of displaced Puerto Rican survivors – including Massachusetts and Connecticut – saw increased homelessness as a result.

Without the affordable and accessible homes survivors need, many have had no choice but to return to uninhabitable homes, sleep in cars or tents, stay at shelters, double- or triple-up with other low-income families, or pay more than half of their limited incomes on rent, putting them at increased risk of eviction and, in worst cases, homelessness.

FEMA's temporary housing programs, including direct housing and rental assistance, are also problematic for low-income families. Rental assistance based on the county or territory fair market rent may be inadequate to meet post-disaster rental rates; families receiving FEMA rental assistance are frequently victims of housing discrimination; landlords may be unwilling to enter into short leases; and alternative rental housing may simply not be available in the wake of a disaster.

Following Hurricane Harvey, FEMA piloted state implementation of temporary housing programs. State-run disaster housing programs faced significant delays and have been unable to address the full scale of the housing needs in large part because FEMA continued to retain control over eligibility and the program-assignment process. According to FEMA, only a few hundred families were served under state-administered housing programs following Hurricanes Harvey and Irma, while state-administered programs like Multifamily Lease and Repair were wholly unsuccessful because property owners declined to participate.

At the same time, FEMA has not embraced new, cost-effective approaches to providing affordable and accessible homes shortly after a disaster. Instead, FEMA continues to rely on trailers, which are expensive and time-consuming to make available and often fail to accommodate people with disabilities. Before a trailer can be used, contractors must level the site and establish electricity and water hookups. When the trailer is no longer needed, contractors must remove and store the trailers. After 18 months, families are expected to start paying often unaffordable rents on their trailers. While alternatives have emerged in recent years, including the innovative RAPIDO program, which allows survivors to live in a prefabricated, modular core while the rest of the survivor's home is built over time, FEMA has not invested in these options.

²⁰ <https://www.huduser.gov/portal/publications/destech/DHAP.html>

²¹ <https://www.cbsnews.com/news/price-gouging-the-only-state-regulation-on-hotel-rates/>

FEMA's Onerous Title Document Requirements

Title documentation requirements have barred low-income survivors from FEMA assistance. FEMA consistently requires disaster survivors to provide title documentation in order to prove eligibility for the agency's IA program and other recovery aid, despite the fact that its guidance on individual and household assistance specifically allows alternative documentation of ownership.²² Low-income homeowners, residents of manufactured housing, renters without written leases, and other individuals frequently lack such documentation or the ability to quickly procure proper documents. This is an issue that has impacted low-income disaster survivors since at least 1995, but FEMA has done little to resolve this issue.

Following Hurricane Maria, FEMA denied assistance to at least 77,000 survivors due to title documentation issues. FEMA's Office of Chief Counsel worked closely with DHRC members Ayuda Legal Huracan Maria, Fundación Fondo de Acceso a la Justicia, and Servicios Legales de Puerto Rico to prepare a "sworn statement" that would allow Puerto Rican homeowners without title documents to prove ownership of their homes so that they can receive the assistance to which they are entitled. Since that time, however, FEMA has refused to provide the sworn statement to survivors or even to make it available on FEMA's website, social media, or at Disaster Recovery Centers, greatly limiting the ability of survivors to make use of this new resource. FEMA has stated to congressional offices that it is not allowed to share such documents, unless they have been approved by the Office of Management and Budget, but FEMA has not taken sufficient steps to get the appropriate approval. FEMA staff have indicated that rather than formally adopting a sworn statement, the agency may instead simply refuse to create such documents after future disasters.

These same issues occurred in North Carolina after Hurricane Florence and in California after the 2017 and 2018 wildfire seasons. In North Carolina and other parts of the American South, rural, historically African American communities often do not use title systems, implementing a system like the one used in Puerto Rico. In California, title issues largely impacted applications for aid by mobile-home-park residents. A large percentage of mobile-home owners, often farm workers or other low-income workers, do not have title to their homes. In each case, FEMA refused to modify its programs to accommodate the situation, denying eligible candidates for aid instead.

Residents of manufactured housing frequently do not have access to proper or updated title documentation for their homes: tracking former owners can be challenging; manufacturers often fail to provide title when the home is delivered; mobile-home parks that control title documents frequently fail to keep records updated; and residents often are victims of fraud and rent-to-own schemes related to title and registration and do not have proper documentation. These issues are prevalent in rural communities, where manufactured housing is a common source of affordable housing. While FEMA has worked with advocates to create "sworn statements" for homeowners, the agency has not created similar forms for residents of manufactured housing.

Slow and Faulty Inspection System

A slow and faulty inspections process bars low-income survivors from needed assistance. The application process for FEMA assistance requires that a certified inspector visit and document damaged or destroyed properties. The inspection process is slow, relying on the survivor to schedule, direct, and accompany the inspector on their visit. Many low-income survivors, however, are displaced to areas far from their pre-disaster home, making it impossible to meet these requirements. In addition, inspectors rely on phone calls and email, which low-income survivors are less likely to have access to in the weeks directly after a disaster. Data collected after Hurricane Harvey show that inspection contact failures disproportionately affected lower-income applicants for FEMA aid.²³

22 FEMA Individuals and Households Program Unified Guidance (IHPUG), FP-104-009-3/September 30, 2016, pp 17-18

23 <https://texashousers.net/2018/11/30/low-income-households-disproportionately-denied-by-fema-is-a-sign-of-a-system-that-is-failing-the-most-vulnerable/>

Inspectors commonly have little knowledge or experience, and they are inconsistently trained and monitored for quality assurance. In Puerto Rico, advocates report that some contractors were paid based on how many homes they could inspect in a day, some did not even enter the homes, and others spoke no Spanish. Neighbors with nearly identical circumstances ended up with vastly different results.

Inspectors often devalue low-income homes or misattribute damage to sources other than the disaster. While FEMA has been barred from using unpublished “deferred maintenance” criteria to deny assistance, it is still training inspectors to use these criteria.²⁴ As a result, inspectors have less success in evaluating homes of low-income survivors, raising assistance denial rates among poorer households.²⁵ Indeed, FEMA denial rates have reached extremely high levels in recent disasters, raising questions about why so many are being turned away.

FEMA'S SYSTEMIC LACK OF TRANSPARENCY

FEMA has consistently refused to clarify or provide important information about its aid application process. By not releasing this information, FEMA has made it difficult - if not impossible - to determine who is eligible to receive assistance and why assistance was denied. A confusing appeals process leads to higher denial rates for low-income disaster survivors.

Daunting Application Process

The daunting application process for disaster aid discourages low-income survivors from applying for assistance. While FEMA, SBA, and HUD offer assistance programs to disaster survivors, basic information on program eligibility is not made publicly available. Without such information, disaster survivors often apply to all programs with the hopes that at least some assistance will be provided. For low-income individuals who may lack internet or phone access or who may need special accommodations to allow them to apply, completing multiple applications can be especially problematic. As a result, many of the disaster survivors with the lowest incomes forgo applying for assistance all together.

Unclear Reasons for Denials

Survivors often do not know why their applications for assistance were denied and how to correct for any errors. FEMA has consistently refused to provide applicants with reasons for the denial of disaster assistance. Instead of receiving guidelines or clarification from FEMA, survivors and advocates are forced to work through a [lengthy administrative process](#) in order to get a reason for their denial.²⁶ The lack of clarity makes it more difficult for assistance organizations attempting to inform and assist low-income survivors after a disaster and means that appeals take longer and are more costly.

Low-income survivors and survivors of color are more likely to be denied when applying for aid.²⁷ As a result, those who have the greatest need for disaster recovery assistance are required to overcome more hurdles and wait longer for aid than other disaster survivors.

Confusing Appeals Process

The FEMA appeals process is particularly confusing and difficult. The initial step in the process is for the denied applicant to submit a form explaining the dispute and providing supporting documentation. FEMA denial letters, however, are overly vague as to the reason for the initial denial of assistance. The denied applicant must refute all possible interpretations of the reason, or they will lose their appeal. As a result, low-income survivors, who often have little access to legal representation or the money for a protracted legal fight, simply do not appeal at all.

²⁴ LUPE v. FEMA

²⁵ <https://texashousers.net/2018/11/30/low-income-households-disproportionately-denied-by-fema-is-a-sign-of-a-system-that-is-failing-the-most-vulnerable/>

²⁶ <https://www.politico.com/story/2018/05/29/houston-hurricane-harvey-fema-597912>

²⁷ <https://www.urban.org/urban-wire/disaster-aid-eligibility-processes-risk-cutting-out-low-income-households-need>

Lack of Data Transparency

It has been extremely difficult to access basic data about FEMA programs and processes. Freedom of Information Act (FOIA) requests to FEMA often go months without being answered. In other cases, FEMA refuses to provide basic information, claiming grounds of privilege.

In recent years, some progress has been made with the release of data after major disasters through FEMA's OpenFEMA portal. The changes at OpenFEMA, while a welcome development, are not guaranteed to continue.²⁸

FEMA'S INABILITY TO ADJUST TO NEW CONDITIONS

Because of climate change, disasters are becoming more destructive, occurring more often, and impacting more communities, posing new challenges for FEMA and disaster recovery efforts. Despite these changes, FEMA has consistently stuck to a rigid system of disaster aid and recovery based on responding to contained local disasters and on inaccurate assumptions about the needs of survivors, leaving little room or capacity to deal with both large, regional disasters and the unique circumstances and needs of a specific community impacted by a disaster.

FEMA has a rigid allegiance to protocol over outcomes. Because of its stubborn reliance on programs inaccessible to low-income survivors and its refusal to release important data on recovery outcomes, FEMA relies heavily on protocol written in Washington and not on what the agency hears from advocates, survivors, FEMA employees in the field, and other stakeholders. FEMA systems are not designed to adapt to situations on the ground. As a result, predictable issues repeatedly arise after each disaster and go unaddressed by the agency, harming low-income survivors.

FEMA has consistently failed to learn larger lessons from past disasters and apply them to future disaster-recovery efforts. FEMA's own internal watchdog, the Department of Homeland Security Office of the Inspector General, was [found](#) to have been removing criticisms from reports on the agency's disaster response and replacing them with success stories, praising FEMA's work.²⁹ As a result of this lack of internal critique and self-adjustment, FEMA has continued making the same mistakes disaster after disaster.

28 Problems with the application and appeals process and data transparency are exacerbated by FEMA's failure to bring its IT into compliance with federal requirements, including systems that cannot keep pace with high-volume processing of applications, do not include real-time data, and do not support information sharing with partners. FEMA has known about these deficiencies for more than 13 years. DHS OIG, FEMA's Longstanding IT Deficiencies Hindered 2017 Response and Recovery Operations, OIG-19-58, August 27, 2019.

29 <https://www.oversight.gov/sites/default/files/oig-reports/OIG-19-41-May19.pdf>

LONG-TERM RECOVERY

UNNECESSARY DELAYS IN THE REBUILDING PROCESS

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. Proposed legislation, the “Reforming Disaster Recovery Act of 2019” (H.R. 3702, S. 2301), would permanently authorize the CDBG-DR program, which would help ensure more timely delivery of funds to disaster-impacted communities.

Because the CDBG-DR program is not formally authorized, HUD operates program funding through separate allocation 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. Allocation-notice delays range from six weeks after the appropriation for Hurricane Katrina and five weeks for Superstorm Sandy to more than 20 months – and counting – after Congress approved mitigation funds for Puerto Rico. If enacted, the Reforming Disaster Recovery Act would direct HUD to establish permanent regulations for CDBG-DR, instead of the current case-by-case notice approach.

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. The plan produced after Hurricane Maria, even after the delay, contained deep flaws, and many programs remain unimplemented two years after the hurricane’s landfall.

State and Local Capacity Challenges

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, these 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.³⁰ 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.

LONG-TERM RECOVERY FAVORS 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. These data, however, frequently underestimate the needs of the lowest-income survivors, leading to fewer resources in communities where they are needed most.

Data from FEMA’s IA program are frequently used to shape long-term rebuilding efforts. As discussed above, low-income survivors struggle to access FEMA programs, and as a result, the agency provides far fewer benefits to renters than to homeowners. By using these data to make recovery decisions, planners overlook renters who were found by FEMA to be ineligible for aid, but who remain in desperate need of recovery funds. After Superstorm Sandy, for example, 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. Because nearly half of renters impacted by Hurricane Sandy in New Jersey were African Americans and Latinx compared to only 16% of impacted homeowners, 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 IA data on personal property loss as a proxy of unmet need underestimates the damage to rental housing, particularly in lower-income areas where the value of personal property per household can be expected to be less on average. 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 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.³¹ After successive disasters between 1999 and 2013 in Houston, for example, the black-white wealth gap in the city increased by \$87,000.³²

30 https://nj.gov/comptroller/sandytransparency/contracts/pdf/hammerman_solicitation.pdf

31 <https://texashousers.net/2018/05/03/texas-housers-calls-on-state-to-amend-harvey-recovery-action-plan-to-be-more-equitable-and-inclusive/>

32 Junia Howell and James R. Elliott, “Damages Done: The Longitudinal Impact of Natural Hazards on Wealth Inequality in the United States”, *Social Problems*, Oxford University Press (August 14, 2018). Available: <https://academic.oup.com/socpro/advance-article/doi/10.1093/socpro/spy016/5074453>

Retrenchment of Racial Segregation

Research has shown that our race and income often determine the neighborhoods in which we live, and where we live greatly influences the life chances we and our children have. The policies that created this effect are not natural, nor were they easy to conceive, implement, and enforce. It took great effort on the part of legislators, businesses, and local leaders to conspire and leave behind an entire subset of the population. 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.

State and local governments certify that CDBG-DR 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 official guide, titled [*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*](#), detailing how this must be accomplished. Despite these legal requirements, communities are too often reconstructed along the same unequal lines as before the disaster. However tragic the catastrophe might be, the event presents an opportunity to deliver on the promise to affirmatively further fair housing with significant funds for community rebuilding aimed at helping disaster survivors with modest incomes and the greatest needs.

Communities of color, while typically over-policed, often have less access to other basic services such as hospitals, banks, grocery stores, social services offices, and fire departments. This dearth of services not only stunts the economic growth of these areas, but it keeps community members less able to prepare for disasters and participate equally in recovery. Not only do communities of color lack access to services needed during and after disasters, they are also often located in the worst place to be during disasters. Research has shown that lower-income communities are often forced to be located in affordable but low-lying areas susceptible to flooding. Compounding this vulnerability is the fact that many communities of color have historically been denied adequate infrastructure due to systemic discrimination.³³ 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. Where such mitigation and investment are not feasible and neighborhoods face retrenchment of their inequalities, recovery coordinators must ensure adequate access to resources allowing community members to access housing in the neighborhoods of their choice.

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.³⁴

Inequitable Infrastructure

Due to a combination of segregation, exclusionary zoning and disinvestment in infrastructure for economically depressed communities and communities of color, 450,000³⁵ of the nation’s affordable homes are located in flood-prone areas. Federally assisted affordable housing continues to be located

33 Benjamin Fahy, Emma Brennehan, Heejun Chang, Vivek Shandas. Spatial analysis of urban flooding and extreme heat hazard potential in Portland, OR. *International Journal of Disaster Risk Reduction*, 2019; 101117 DOI: 10.1016/j.ijdr.2019.101117

34 “A Perfect Storm: Extreme Weather as an Affordable Housing Crisis Multiplier”, Center for American Progress, August 1, 2019, <https://www.americanprogress.org/issues/green/reports/2019/08/01/473067/a-perfect-storm-2/>

35 <https://www.nytimes.com/2019/04/11/us/houston-flooding.html>

in at-risk areas, putting 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.

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 for environmental damage or flooding during disasters.

As the climate changes, 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.

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. Houston, 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, Latinx, 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.³⁶ In Miami, speculative markets have begun adjusting to rising seas and the increasing frequency of hurricanes,³⁷ much to the detriment of low-income communities of color.³⁸ 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,

36 "...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." <https://www.citylab.com/equity/2017/09/climate-changes-inevitable-displacement-of-most-vulnerable/539232/>

37 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). <https://nca2018.globalchange.gov/chapter/front-matter-about/>

38 https://www.huffpost.com/entry/climate-change-gentrification-miami-displacement_n_5c13730ce4b0f60cfa27e471

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.³⁹ 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 lacked 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 access requirements apply to disaster recovery activities. 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 often 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.⁴⁰

Fair Housing Violations

Federal statute, regulation and HUD allocation 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 allocation 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

³⁹ 42 U.S.C. §2000d and 24 C.F.R. § 1.4

⁴⁰ Pacific Standard Magazine, "Disability and Disaster Response in the Age of Climate Change", David Perry, 12/21/17

through that analysis, and maintain records reflecting the analysis and actions in this regard.”⁴¹

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

HUD often approves CDBG-DR action plans that have violations of civil rights law built into their structure. Plans have been approved that provide assistance to homeowners based upon discriminatory property values, that underassess the number of renters affected by a disaster, or that favor homeowners. HUD has the authority to reject CDBG-DR action plans that do not provide for implementation of civil rights protections.⁴² 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.⁴³

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 African-American and Latinx 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 the [National Low Income Housing Coalition](#), there is shortage of 7 million affordable and available rental homes in the U.S. for households with the lowest incomes.⁴⁴ 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 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%.⁴⁵

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

41 (71 Fed. Reg. 7666, 7671, Feb. 13, 2006, Katrina) (78 Fed. Reg. 14329, 14347, March 5, 2013 Sandy).

42 (24 C.F.R. 91.500)

43 (24 CFR §91.225)

44 <https://reports.nlihc.org/gap>

45 <https://www.latimes.com/local/lanow/la-me-paradise-housing-shortage-20181123-story.html>

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 Community Development Block Grant 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 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.⁴⁶

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

⁴⁶ https://theintercept.com/2019/09/22/puerto-rico-hurricane-maria-disaster-relief/?fbclid=IwAR0ILYTMok5cOTi_XP9ucVaNklyPSS6B7ObPttEClydy40px2IFTQUy_kuw

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.

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.⁴⁷

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

47 https://theintercept.com/2019/09/22/puerto-rico-hurricane-maria-disaster-relief/?fbclid=IwAR0ILYTMOk5cOTi_XP9ucVaNklyPSS6B7ObPttEClydy40px2IFTQUy_kuw

minority-controlled businesses.⁴⁸ 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.

⁴⁸ 12 U.S.C. §1701u; 42 U.S.C. §§1437 c, g and l

MITIGATION AND RESILIENCY

PRE-DISASTER MITIGATION CHALLENGES

Inequitable Investments

As discussed above, decades of divestment have resulted in low-income communities and communities of color without the basic level of infrastructure to protect residents from disasters. Despite the clear need, mitigation investments are more often made in white, affluent neighborhoods, while the needs of low-income communities of color are ignored.

Affordable Housing and Other Construction

Current U.S. infrastructure and building design standards do not take into account future climate trends.⁴⁹ Stronger building codes have been shown to be successful, with studies of the devastating California wildfires revealing that over half of the homes built according to a stronger 2008 building code survived as opposed to only 18% of the 12,100 homes built prior to 2008.⁵⁰ Housing reconstruction and mitigation strategies that extend these protections to all members of the community offer great opportunities for addressing the affordable, accessible housing crisis.

In many places, disasters have been worsened by accelerated construction in floodplains. Since 2000, the population in floodplains has grown slightly faster than areas outside of floodplains, according to an [analysis of Census data](#).⁵¹ While some of this development is luxury development in coastal areas, some is lower-cost homes and apartments in areas previously shunned by developers. Floodplain development can lead to flooding not only in the development itself, but also in adjoining areas, effectively increasing the size of the floodplain.

[Research by the National Institute of Building Sciences](#) shows that every dollar spent on mitigation saves six dollars in federal resources.⁵² For many low-income people, however, there are few opportunities to relocate to a more resilient home or community prior to a disaster. While many low-income people may choose to live in their current neighborhoods, despite the lack of mitigation measures, others have no other option but to live in at-risk areas due to past and continued racial segregation, discrimination, and targeted siting of affordable housing.

Lack of Coordination Among Federal Agencies

There is a lack of coordination among the various federal disaster recovery and mitigation programs administered by the federal government – which, in addition to FEMA and HUD, include various programs across numerous departments including Interior, Agriculture, and Defense. Even within the same agency, there is often not sufficient coordination across different programs. For example, FEMA treats the funding from Individual Assistance and the National Flood Insurance Program (NFIP) as two different programs, and generally does not look at the savings that could be realized across programs from mitigation or other proactive approaches.

FEMA offers [technical assistance](#) to individuals, local organizations, and government and tribal

49 Reidmiller and others, "Fourth National Climate Assessment, Chapter 1."

50 Dale Kasler and Phillip Reese, The Sacramento Bee, "Millions bracing for wildfire season wonder if their homes are safe," Redding Record Searchlight, April 11, 2019, available at <https://www.redding.com/in-depth/news/2019/04/11/california-wildfire-prevention-protection-home/3412609002>

51 <https://www.governing.com/topics/transportation-infrastructure/gov-flood-zone-floodplain-development-homes-zoning.html>

52 <https://www.nibs.org/page/mitigationsaves>

governments at all levels.⁵³ FEMA also [requires](#) all units of general local government (UGLG) in areas subject to storms and flooding to have in place updated and approved floodplain management plans in order for residents to be eligible for NFIP and for public and private eligibility for post-event assistance.⁵⁴ FEMA regularly publishes notices in the Federal Register listing UGLGs that are not in compliance with the act, giving them notice of pending termination from NFIP.

HUD's engagement in mitigation has historically been limited to how grantees choose to use CDBG-DR; the latest round of CDBG-DR funding includes \$8 billion in funds specifically for mitigation (CDBG-MIT) allocated to Puerto Rico alone, which will likely be the largest federal CDBG-DR mitigation program ever. In the wake of Hurricane Sandy, HUD published its [Hurricane Sandy Rebuilding Strategy](#) that promoted resilient rebuilding, and there have been some efforts to [change building standards](#) in floodplains.⁵⁵ There remain many UGLGs, however, that do not significantly regulate floodplain development, with only weak federal controls to govern it.

CONCLUSION

America's current disaster housing recovery framework is broken, reinforcing racial, income, and accessibility inequities at each stage of response and recovery. The lowest-income survivors – including people of color, seniors, people with disabilities, people experiencing homelessness, people with limited English proficiency, and other individuals – are left without the resources needed to get back on their feet.

Our nation needs a new vision for disaster housing recovery – one that places the housing needs of the lowest-income survivors, including people of color, people with disabilities, and others, at its center. For this reason, the National Low Income Housing Coalition and the NLIHC-led Disaster Housing Recovery Coalition of more than 850 local, state, and national organizations will host a policy convening October 28-30, 2019 to bring together key stakeholders to reimagine a new federal disaster housing response and recovery framework that is centered on the needs of the lowest-income survivors and their communities.

OUR PROPOSED REDESIGN OF THE NATION'S DISASTER HOUSING RECOVERY FRAMEWORK TO ONE THAT ALLOWS FOR AN EQUITABLE AND COMPLETE RECOVERY WILL BE PUBLISHED IN EARLY 2020.

⁵³ <https://www.fema.gov/fema-technical-assistance-program>

⁵⁴ <https://www.fema.gov/floodplain-management-requirements>; (See also: Flood Disaster Protection Act of 1973: 42 U.S.C. §4002).

⁵⁵ Hurricane Sandy Rebuilding Strategy; change building standards

THANK YOU TO

THE
KRESGE
FOUNDATION

For support for writing this paper.

AND TO THE



FORD FOUNDATION

For support for the Disaster Housing Recovery Coalition convening.

AND TO

THE **JIB** FOUNDATION

For its support for the creation and ongoing work of the Disaster Housing Recovery Coalition and its efforts on disaster housing recovery and rebuilding.