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THE ROLE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN DISASTER RECOVERY

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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THE ROLE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN DISASTER RECOVERY

WEDNESDAY, MAY 20, 2009

U.S. SENATE,
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:39 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Mary L. Landrieu, Chairman of the Subcommittee, presiding.

Present: Senators Landrieu and Graham.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. Thank you for joining me today. I am going to call the hearing of our Subcommittee to order, and hopefully we will be joined by my Ranking Member, Senator Graham, who is currently attending an Armed Services Committee hearing, but he hopes to be here shortly.

Let me begin by welcoming all of our witnesses. We are going to have two, I think, very good and informative panels this afternoon. But the purpose of today's hearing of the Subcommittee on Disaster Recovery is to really examine the role of Community Development Block Grant (CDGB) Programs in disaster recovery.

Since 1993, Congress has increasingly used the Community Development Block Grant Program to support short- and long-term recovery from natural and man-made disasters, starting with Hurricane Andrew in 1992; the Midwest floods in 1993 again; then the Oklahoma City bombing of 1995; Midwest floods in 1997; the terrorist attacks in New York, Virginia, and Pennsylvania in 2001; Hurricanes Katrina, Rita, and Wilma in 2005; Hurricanes Gustav, Ike, Dolly, and the Midwest floods in 2008.

In the past 4 years alone, Congress has appropriated over $26 billion in Community Development Block Grant (CDBG) funds for disaster relief. That makes this source one of the principal means of financing recovery in the United States. And because of the numerous times it has been used and the amount of money involved, it should signal a real interest on the part of Congress to determine if this is the best way to provide funding to States and local communities after a disaster. And if it is, why; and if it is not, is there a better approach? That is really what this hearing is about this afternoon.

As we all know, the Community Development Block Grant Program was created in 1974, basically, at the request of mayors, of which my father was one at the time, indicating that the Federal Government should provide more direct aid to cities and areas that are struggling to develop with limited resources. The Federal Government should be a partner, the program was created, and it has operated generally that way ever since.

But these Community Development Block Grant formulas are allocated annually, as we might remember, to over 1,000 communities, entitlement communities, in 50 States and five territories, to support neighborhood revitalization, housing rehabilitation and economic development. Before spending funds, States must submit action plans to HUD for approval. Eligible activities span across a range of 25 different categories. And I believe it was that versatility and flexibility that led Congress initially to think that this might be the best way to send relatively large sums down to States and local communities. Hopefully, this Subcommittee will shed light on whether that was a good decision or not.

More than $20 billion in emergency Community Development Block Grant appropriations have gone to five States along the Gulf Coast since 2005 to support recent hurricane relief. In addition to HUD, we have invited State officials here today from the three largest recipients of this funding to offer their perspectives on this program. We have also asked housing advocates from the nonprofit community in those three States—Texas, Mississippi, and Louisiana—to share their experiences using these funds, advocating on behalf of homeowners and renters alike, and their impressions of the States' management of these programs.

Community recovery depends on more than housing, but approximately, as you can see from the charts up here, both for Mississippi and Louisiana—and I am sorry we do not have a chart made for Texas, but we will shortly—the bulk of the funding has gone to housing.[1]

Hurricanes Katrina and Rita destroyed, as we will recall—and I think it is important to frame for this hearing—over 250,000 homes in Louisiana, 61,000 in Mississippi, 75,000 in Texas, either completely destroyed or severely damaged, rendering unhabitable the dwellings.

Mississippi dedicated 53 percent of its initial $5.5 billion for housing. Louisiana has subsequently dedicated 83 percent of its $13.4 billion, which was received not at one time but over the course of, I think, 2½ years. Texas dedicated 84 percent of its initial $503 million from Hurricane Rita to housing, but has only allocated up to 48 percent of its $1.3 billion recent allocation for Hurricanes Ike and Dolly.

Louisiana and Mississippi had some similarities and some differences. With Texas, as well. Louisiana and Mississippi opted to use a State-managed program model. Texas, in the last 3 years, has actually tried all three different approaches, a local, a regional, and State approach. We will hear from them about that.

Louisiana originally set up a rehabilitation program that incentivized applicants to rebuild within the State, thinking that a

[1] The charts referred to by Senator Landrieu appears in the Appendix on page 143

public policy, trying to set up a program that really encouraged people to rebuild in the neighborhoods that were seriously destroyed, would be a good way to begin. Ultimately, the State decided to go a different route.

Mississippi had originally created a compensation program instead, which provided grants to recipients regardless of whether they decided to rebuild in their area or leave the region or the area entirely. We will hear about the pros and cons of those two approaches.

Both States designated funding to be administered through different State-wide entities; in Louisiana's case, the Louisiana Office of Community Development, and in Mississippi, the Mississippi Development Authority. Both States capped homeowner grants at $150,000 and launched homeowner assistance programs before launching programs to assist renters. Unfortunately, Texas was forced to cap its homeowner grants for Hurricane Rita at $65,000 due to inadequate funding, in their view. I would like to hear more about that. Both States have also commissioned independent reviews of their housing programs to evaluate performance procedures in service delivery.

As you can see from the chart,[1] Mississippi, because of its initial upfront and fairly immediate allocation of $5.5 billion, was able to meet, according to the State, their housing needs. There is some dispute of that which we will hear today from our second panel. But, nonetheless, was able to also direct a considerable portion of their allocation from Congress to infrastructure revitalization and economic development, $570 million going to the Port of Gulfport alone, and $641 million to overhaul the coastal's region wastewater infrastructure.

Louisiana, because the need was so much greater in terms of the destruction of the housing units, dedicated a much larger portion for homeowner assistance and some rental assistance as well, and then had much less money available to be used for infrastructure and virtually none or limited for economic development, as you can see.

So this is just a broad outline of how this money was generally used for the recovery. The questions are really important and are outstanding as to whether this is the right approach or not; and how it could be improved?

I would like to mention, bringing us kind of up to date on where we are today, that in the very last round of HUD money for Texas and Louisiana primarily and some of the Midwest States, based on our difficulty moving some of that money out of Washington, down to the State level, the Members of Congress insisted that one-third of the money appropriated to HUD be allocated to the States within 60 days. I am happy to say that was done.

The problem is that two-thirds of the money is still sitting in Washington. And now an additional, I think, 8 months has passed, and that money is still sitting here because we were not able to get more than that directed out of the door in 60 days. So we are going to ask HUD what their plans are to get that money down to the States and communities that, obviously, need it.

[1] The chart referred to appears in the Appendix on page 145.

HUD, according to their testimony today, has not yet developed a review process for groups of projects, such as groups of homes in a single neighborhood, requiring many of these individual homeowners to go through their own individual environmental impact plan, which is required under the Community Development Block Grant Program for obvious reasons, but it becomes questionable as to why you need an individual environmental impact statement for every individual home when it is clear that the entire neighborhood of 7,000—8,000 in some instances—homes were destroyed in a particular neighborhood. We will be interested to see how that is coming along. Nor has the agency developed a consolidated review process for multiple funding streams from different agencies. So when the communities receive FEMA money for hazard mitigation, it is not always coordinated with the money that comes from HUD. Hopefully, this hearing can shed some light on how that could be done better.

So in conclusion, our hearing objectives are, is the Community Development Block Grant Fund the right Federal program for recovery? If not, what is the right program? How can HUD improve the program's administration? How can States improve their administration? Could Congress provide more legislative instructions to the agency about this situation? What have Louisiana, Mississippi, and Texas done alike, what have they done differently, what have they done well, what have they done poorly? Housing programs, have they been designed to effectively assist homeowners and renters alike? Have special populations of seniors, the disabled, other populations that have great difficulty, been included, as they should have been, in our efforts? Should States focus housing assistance on compensating homeowners or incentivizing the re-population of an area? And there are any number of questions that we hope to answer for today.

So without going any further, let me just add, particularly for Louisiana's Road Home program, which is a program I am particularly interested in as a Senator from Louisiana. We want to also find out today if the appeals process that is set up for Road Home is independent, expedient, and fair? Are Road Home grants being awarded on an accurate and consistent basis? If there is going to be surplus in Road Home, what will that surplus be and how is the State planning to allocate it?

In addition, we want to try to find these answers as quickly as possible because hurricane season is literally just a few weeks away. We would like to believe if we have to go through this again, that we would go forward in a much better, more focused way. And I am not sure that 3 weeks is enough time to fix everything; that is problematic. But at least this hearing will give us, and I think this new Administration, a chance to start trying to create and fashion and tailor a program that really meets the needs more directly than I think this program has been able to do, despite the many good efforts of many people in this room.

So why don't we bring the witness panel forward, Dominique Duval-Diop, Melanie Ehrlich, Karen Paup and Reilly Morse.

Our first witness today is Ms. Duval-Diop, who is the Senior Associate for PolicyLink. In this role, she directs research and informs policymaking about equitable distribution in the use of hurricane recovery redevelopment resources. Prior to this, she assisted in the start-up of the Louisiana Recovery Authority, acting as its Director of Long-Term Planning. We look forward to hearing from you today.

Our second witness will be Dr. Melanie Ehrlich, the Founder of Citizens' Road Home Action Team (CHAT). Dr. Ehrlich founded CHAT in September 2006 and runs the all-volunteer effort with no budget, 895 members, by E-mail and through bi-weekly meetings. She is also a professor at Hayward Human Genetics Center. We look forward to your comments today.

Two other panelists. Karen Paup is the Co-Director of the Texas Low Income Housing Information Service in Austin, Texas. Ms. Paup has worked for the last 25 years solving affordable housing problems in Texas. She has testified previously before this Subcommittee, and I am happy to invite her back to hear her testimony today.

Finally, Reilly Morse, senior attorney in the Katrina Recovery Office of the Mississippi Center for Justice in Biloxi, Mississippi. Mr. Morse is a third-generation Mississippi lawyer, former municipal judge and prosecutor, a survivor of Hurricanes Katrina and Rita, and he is here to give his views about efforts in Mississippi to provide affordable housing for renters particularly, but homeowners as well.

I think this panel will shed some light on some of the difficulties and challenges that still remain.

I am very happy that on our second panel we will be joined by Governor Haley Barbour from Mississippi; Paul Rainwater, representing the State of Louisiana; and Charlie Stone, Executive Director of the Office of Rural Community Affairs, representing Texas.

So we will have all three States represented, but let's first hear from our panel of advocates in your views about whether Community Development Block Grants are the right source of funding, how they have been used from your perspective—well used or misused. And we would like you to limit your comments, of course, to 5 minutes. Thank you.

STATEMENT OF DOMINIQUE DUVAL-DIOP,[1] SENIOR ASSOCIATE, POLICYLINK

Ms. DUVAL-DIOP. Good afternoon, Madam Chairman, Senator Landrieu, and Members of the Subcommittee, who have been working diligently over the years to monitor and provide guidance about disaster recovery. My name is Dominique Duval-Diop, and I am a senior associate at PolicyLink, as well as a board member of Equity and Inclusion Campaign, which is a nonpartisan policy advocacy campaign advocating for an equitable Gulf Coast recovery.

I want to begin by thanking you for your continued efforts to oversee and monitor the State-managed housing programs created in the aftermath of the hurricanes and also for inviting me to testify on the role of the CDBG program in disaster recovery.

PolicyLink is a national research and action institute advancing economic and social equity. We have offices in Oakland, New York,

[1] The prepared statement of Ms. Duval-Diop appears in the Appendix on page 55.

New Orleans, and Los Angeles, and since 2007, we have invested significant resources in monitoring the development, implementation, progress, and impact of Louisiana's housing recovery programs.

Throughout our analysis, we have partnered with State agencies, such as the Louisiana Recovery Authority and the Louisiana Housing Finance Agency. We have also convened or supported the convening efforts of hundreds of nonprofits, faith-based and community-based groups to inform our analysis and also help craft recommendations.

There is no objective measure for how fast such a massive recovery effort should move, but the challenges facing homeowners and renters who confront ever-changing program rules and who are left with insufficient resources to rebuild, coupled with the Catch–22 of ending temporary help before rental replacement units are available, continues to place a significant burden on impacted residents and communities that they are struggling to rebuild. So you will hear in the testimonies today, as well as read in the written testimonies, many figures and statistics, but we must remain aware of the real human impact of how these funds have been spent and what we can do to improve outcomes.

In my testimony, I want to highlight the following ongoing concerns, particularly the insufficient allocation of CDBG resources towards activities that support the core mission of the program, which is to take care of the needs of the low income and the most vulnerable. We have done a good job in Louisiana of allocating the lion share of our resources towards housing recovery, but we have allocated much less to the recovery of affordable rental housing units. About 14 percent—and I think our numbers are a little different from those presented on the two figures that are displayed. But about 14 percent, according to my calculations, has been designated to repair or replace affordable rental units, including public and assisted housing and also supportive housing and homeless supports.

The rental resources will only replace about two-fifths of the 82,000 rental units that were damaged or destroyed in Louisiana; and, furthermore, few, if any, of the CDBG resources have been targeted specifically at the needs of families who are forced to move out of the State after the storms and who seek to return home. While, as of April 2009, 43 percent of the Road Home applicants who closed were low to moderate income, and 53 percent of the disbursements went to those individuals, whether or not they were able to rebuild is a different matter. And this is related to some of the program policies that were put in place related to grants calculation formulas.

There is also a need to focus on neighborhood level recovery by creating structural supports for nonprofit organizations. We have seen a concentration of blight in certain neighborhoods, and we are all well aware of problems that exist in areas such as the Lower 9th Ward and the connection between residents who face huge rebuilding gaps and are unable to repair, and the properties that were sold to the State (to the Louisiana Land Trust). The confluence of these factors really serves to concentrate blight in certain areas.

We have worked with a mosaic of community organizations that have arisen or expanded in disaster-affected areas to help residents navigate the path to recovery. But until recently, we have not, really as a State, invested significant resources in that community infrastructure, that nonprofit infrastructure. And the lack of that substantial and sustained investment in community infrastructure from the outset of hurricane recovery has stifled the organic recovery process and community ingenuity. We have missed the opportunity to contribute to the creation of sustainable and resilient communities, communities that are able to initiate and invest in their own recovery and redevelopment.

Community participation in the crafting of CDBG programs has also been another missed opportunity. Community participation can play a critical role in shaping policies and programs that address community needs.

Since the State received funding for Hurricanes Gustav and Ike, they have required an extensive citizen input process for the local subgrantees, but for its State-level action plans, the State has been operating under an expedited citizen comment period, which does not provide the community a good opportunity to influence the crafting of programs, and this is another missed opportunity.

I welcome your questions. I see I am over time. I have a little bit more to say, but we can——

Senator LANDRIEU. We will cover that in the questions.

Ms. DUVAL-DIOP. Sure. Thank you.

Senator LANDRIEU. Thank you very much. Ms. Ehrlich.

STATEMENT OF MELANIE EHRLICH, PH.D.,[1] MEMBER OF THE LOUISIANA RECOVERY AUTHORITY HOUSING TASK FORCE, AND FOUNDER, CITIZENS' ROAD HOME ACTION TEAM

Ms. EHRLICH. Thank you. I am Melanie Ehrlich, and I am the founder of the grassroots organization, Citizens' Road Home Action Team. Thank you, Senator Landrieu, for giving me this opportunity to testify.

I would like to start with the bottom line. First, there are very large numbers of South Louisiana hurricane victims hurting badly because of broken promises from the Road Home program. I have letters here—I deposited a copy with you, Senator Landrieu—that were sent just within the last few days to you and several other congressmen, urging for help about the Road Home program and the HUD investigation that I will mention later.

These letters attest to the unconscionable unfairness that is widespread in grant processing, I am sorry to say. The considerable amount of remaining program funds should be spent, first and foremost, to fix Road Home's short-changing of applicants due to grant processing mistakes. This can only be done by serious reform of appeals. The second point of our bottom line is that our complaint to the HUD inspector general's office about these problems should no longer be delayed.

Nonetheless, thank goodness that Congress funded the Road Home program for South Louisiana for the tens of thousands of for-

[1] The prepared statement of Ms. Ehrlich with attchments appears in the Appendix on page 47.

tunate applicants. However, for tens of thousands of unlucky applicants, this has been an ordeal for 2 or 3 years. Thousands of applicants have not received the promised help because this program often did not follow its own rules, withheld information about its rules, made the rules extraordinarily and unnecessarily complicated, and used ever-changing rules to downsize grants or to leave hurricane victims still waiting for grants.

From interactions with more than 1,400 applicants and many meetings and E-mails with top Road Home officials, I saw that the underlying policies and implementation of the program put the needs of the contractor, ICF International, and the State above the desperate needs of the applicants.

Louisiana's recovery and its people have suffered because of gross unfairness, especially, but not exclusively, for low to moderate-income applicants whom CDBG is supposed to help; a lack of transparency concerning the program's rules and regulations; double standards and inconsistent treatment; systematic—ignoring phone calls, faxes, certified letters from desperate applicants for many months or more than a year; an appeal system that often rubber-stamped the mistakes of the contractor apparently with no written standards; an obligatory pre-appeals process that was fraudulent and kept applicants out of appeals, often permanently; and refusal to give applicants important notices in writing and data from their file to understand their grant and any errors.

Here are just two quotes from editors of the *New Orleans Times-Picayune* in October and December 2008.

"The Road Home program has messed over so many people in so many ways, over such a long period of time, that at this point, it takes a particularly egregious error to attract attention."

"ICF International's incompetence was well established. There is public anger over its failures."

HUD should insist that Louisiana Recovery Authority (LRA) use the substantial amount of unallocated funds, first and foremost, to fix Road Home errors that are not due to the applicants' mistakes, and this can only be done by having a new fair appeals system to take care of these mistakes and applicants unfairly left in limbo.

HUD should insist that applicants who made no intentional mistake not be asked to repay money resulting from program errors that were not obvious to the applicants. Our 39-page complaint to the HUD Office of the Inspector General should be put back on the fast track instead of being delayed for 6 months or longer—when almost all the money will probably be spent. Our allegations of serious mismanagement, waste and abuse and evidence of contractor fraud should be evaluated fairly, notwithstanding HUD's involvement in oversight of the program and the addition of a former Road Home contractor to HUD's disaster recovery staff recently.

I hope, Senator Landrieu, that you will read my summary of pleas from applicants, asking for justice and fairness. Thank you for your consideration, and we thank the American people for their generosity.

Senator LANDRIEU. Thank you very much. Ms. Paup.

STATEMENT OF KAREN PAUP,[1] CO-DIRECTOR, TEXAS LOW INCOME HOUSING INFORMATION SERVICES

Ms. PAUP. Madam Chairman Landrieu and Members of the Subcommittee, thank you for the opportunity to testify today on the effectiveness of CDBG in meeting post-hurricane housing needs in Texas. I would like to express my appreciation to you and the members of your staff who are working to create a better future for long-term disaster recovery.

I am Karen Paup. I am co-director of the Texas Low Income Housing Information Service. We are a nonprofit organization that advocates affordable housing for low-income Texans. The two most serious problems with the administration of CDBG disaster recovery in Texas are the unconscionably slow pace of providing housing assistance and with the Hurricanes Ike and Dolly allocation, diversion of CDBG away from housing toward lower-priority infrastructure and economic development activities.

Out of the 5,175 homes contracted to be rehabilitated or reconstructed with CDBG for Hurricane Rita, less than a thousand homes in Texas are complete or under construction. Much time was lost due to Texas' reliance in round one on Hurricane Rita funding of local government consortia, known as Councils of Government. The councils had little to no experience in carrying out housing programs resulting in painfully slow implementation.

Due to this poor performance, the State housing agency undertook administration of round two funds. And as I explained in my written testimony, although this program has been slow to get up to speed, we believe that, ultimately, it will be successful.

In our view, tragically, in its plan for the latest round of CDBG disaster assistance, the $1.3 billion for Hurricanes Ike and Dolly survivors, Texas has returned administration to the Councils of Government and individual local governments. We believe this will result in great delay of assistance to hundreds of thousands of families who need housing.

Also a great concern to us is the local councils' strong tendency to maximize the use of disaster funds for infrastructure, as has been demonstrated by their decision to devote only about half of the funds for Hurricane Ike and Dolly survivors to housing. And of those funds, we expect little will go to help low-income renters, even though low-income renters were disproportionately displaced by Hurricane Ike. These decisions will leave many thousands of Texas hurricane survivors without any housing assistance.

To summarize from my written testimony, we make several recommendations for improving the CDBG disaster program.

First, we recommend a clear mandate by Congress that our Nation's first goal in disaster recovery is for survivors to quickly obtain a decent affordable home in a quality community.

Second, we recommend coordination between FEMA and HUD. FEMA needs to compile accurate damage estimates with income data on survivors, along with their housing needs, so that Congress can appropriate the right amount of housing. And this goes to your question, Senator Landrieu, earlier about the funding for Texas. Part of that is due to the inaccurate estimates by FEMA of the

[1] The prepared statement of Ms. Paup with attachments appears in the Appendix on page 66.

needs in Texas. Once that funding is in place, FEMA and HUD need to work together so that low-income families have seamless case management as responsibility transfers from FEMA to HUD.

Third, in place of this single CDBG program, we recommend Congress establish two disaster recovery block grants, one for housing and the other for other needs. The housing grant should prioritize serving the most vulnerable members of the low-income population, that is the elderly, persons with disabilities, and single parents with children.

Fourth, poorly housed and chronically impoverished families struck by disaster need a permanent, not just a temporary, housing solution. We believe that the housing block grant should make available to renters and homeowners, who choose to do so, to take a Section 8 voucher, and in some cases where it would be economically beneficial to them, to move to another community.

Fifth, we ask Congress to ensure that HUD monitors and enforces fair housing laws in Federal disaster programs. And this goes back again to the idea that people need to be able to move to areas of greater economic opportunity if they choose to do so. We also recommend the establishment of a HUD disaster preparedness and recovery office charged with working with local and State governments for rapid carrying out of housing programs.

In conclusion, the experience of low-income, Gulf Coast hurricane survivors illustrates the need for carefully crafted programs. Texas has struggled for almost 4 years to come up with the correct approach to post-disaster housing. After a false start, we feel that Texas has at last a potentially successful program in place for Hurricane Rita survivors. Unfortunately, the State's new plan for Hurricane Ike and Dolly survivors is based on a model that has already proven too slow and which directs funds away from critical individual housing recovery needs.

We urge the Subcommittee to work quickly to enact reforms that ensure future rounds of disaster funding avoid these problems and delays. Thank you.

Senator LANDRIEU. Thank you, Ms. Paup. Mr. Morse.

STATEMENT OF REILLY MORSE,[1] SENIOR ATTORNEY, MISSISSIPPI CENTER FOR JUSTICE

Mr. MORSE. Thank you for inviting the Mississippi Center for Justice to testify about our State's use of Community Development Block Grant funds for disaster housing recovery. Mississippi is capable of achieving impressive results in assisting homeowners when it chooses to do so. The State's Phase I program paid out over 18,000 grants to insured homeowners located outside the Federal flood plain who were damaged by Hurricane Katrina's large storm surge. Phase I covered almost all households in this category. It moved quickly, was more generous, about $74,000 in an average grant, and had a $150,000 cap.

The next homeowner grant program, known as Phase II, targeted lower-income residents and covered homeowners with or without insurance, inside or outside the Federal flood plain. It compensated

[1] The prepared statement of Mr. Morse appears in the Appendix on page 82.

8,000 households, fewer than it should have, and paid less on average, about $47,000, and had a lower cap, only $100,000.

Sadly, Mississippi's remaining housing programs continue a downward trend. Over 7,300 coastal homeowners whose dwellings were destroyed by Hurricane Katrina's Category 3 winds, some nearly blocks from the shore, were excluded by Mississippi's arbitrary choice to assist only homeowners damaged by flood waters. For this group, Mississippi gets a zero.

Today, between 3,000 and 4,000 households face deadlines to leave FEMA trailers or Mississippi cottages. Several thousand others live in unrepaired homes and seek relief from charitable organizations. Mississippi offered no assistance to homeowners like Joe Stevens, a fisherman who lost his leg to diabetes, his daughter to suicide, and his house, eight miles north of the Mississippi Sound, to a tornado spun from Hurricane Katrina.

Another is James Johnson, who retired just before the storm after 50 years at a local lumber company. Mr. Johnson saw the home he had built and lived in for almost 60 years destroyed by Hurricane Katrina's winds. But he is ineligible for a Federal home loan or grant because Mississippi tells wind-damaged homeowners you are on your own.

If either of these men had lived in Louisiana, they would have been compensated under the Road Home program, or if they were major employers, like an electric utility, a State port, or a shipyard, Mississippi would reward them with grant funds. It would not matter if these businesses had not gotten enough insurance or if their loss was caused by wind. They would be generously compensated.

Mississippi's housing programs wrongly deem folks like James Johnson as undeserving or irresponsible, but it is not irresponsible to be poor in a coastal region dominated by low-wage service industry jobs, where 30 to 40 percent of the population earns too little to meet basic needs without Federal assistance, and where, thanks to a legacy of racial segregation and discrimination, African Americans have lower median incomes and homeownership rates and higher poverty rates than their white neighbors.

It is certainly not irresponsible to be a renter if you cannot afford to buy a house, and landlords are not responsible for the barriers to reconstruction that have crippled the rental recovery. They needed, and their tenants deserved, a quicker and more robust response than 10 percent of the rental funds having been spent after 3 years in Mississippi.

The disaster CDBG programs require the States to spend at least 50 percent of the funds to benefit lower-income persons who lack their own economic safety net. By the end of 2008, Mississippi had spent only about 21 percent out of $2.6 billion in CDBG funds on its low-income residents, while Louisiana easily met the 50 percent requirement.

Mississippi chose to do less for its more vulnerable citizens, and U.S. Department of Housing and Urban Development has rubberstamped this outcome with five waivers of the low-income requirement. The State's ability to restore balance is crippled by its diversion of $600 million away from more pressing housing needs to finance a non-hurricane related massive expansion of a State-owned port.

Now, the State has confidently predicted in its testimony that all segments of Hurricane Katrina-affected housing stock will be assisted by programs at current funding levels, but its own numbers in Governor Barbour's testimony show that about 42,000 units will be restored. And as, Senator Landrieu, you noted, we had 61,000 destroyed, so there is a big gap.

Mississippi's request for 5,000 additional Section 8 vouchers is standing alone, an inadequate solution. More subsidized rentals must be built in the affected region to be matched with these vouchers and to meet other needs. And vouchers do not help Mr. Johnson, who at age 74 should not be uprooted from his family property and put into an apartment complex five counties away just because a landlord has a vacancy there.

Mississippi should aim for as impressive results for lower-income renters and wind-damaged homeowners as it has for those lucky enough to be first in line for Federal relief. With another hurricane season approaching, our State should immediately reallocate money to increase small rental, subsidized apartment construction, and, yes, help needy windstorm-damaged homeowners. This reallocation will create jobs and revitalize our tax base and our economy as readily as the economic development programs from which much of these housing funds were diverted. Thank you.

Senator LANDRIEU. Thank you all very much. It has been really terrific testimony that you have provided. Before I get into my brief questions, I would like to ask each of you to add anything that you want to your testimony that perhaps you did not cover or raise an issue that someone else's comments spurred to your mind.

I know that, Ms. Duval-Diop, you did not get to cover everything, so is there something you want to add before I go to my questions?

Ms. DUVAL-DIOP. Yes, thank you, Senator. I would like to talk a little bit more about the connection between policies that were developed and their impact. Particularly, the Road Home formula was crafted—was changed in August 2006. Previously, it would have allocated gap funding to cover damages up to $150,000. The change instead changed the formula to rely only on the pre-storm value of the house and cap gap funding for low income families to $50,000. And so that disfavored homes that were traditionally devalued; homes in low-income, African American communities, as well as more middle-class communities.

So we have seen that because of this change, about 47 percent of all applicants who chose to rebuild had a gap, a substantial gap. On average, State-wide, the gap is about $35,000, and it is much larger in some of those neighborhoods, such as New Orleans East and the Lower 9th Ward.

The second example I would like to put forth is for the Small Rental Repair Program. Nonprofit entities knew from the very beginning that it would be very difficult for owners of small rental properties, who were affected by the storms, not only for their own homes, but also their rental properties, to garner credit to get loans to be able to rebuild their home if they did not have sufficient insurance because of the impact that the storms had on their credit ratings. But the program was set up in such a way that they had to go and get that financing. And we wasted a lot of time trying to get these small landlords to be able to take advantage of the program, which is, actually, targeted at creating a lot of affordable housing. It could really get us off the ground.

So the State, 3½ years later, made the change to allow for up-front financing for these small landlords. If we had done that in the past, 2 or 3 years ago, we would not be in this situation. We would see a lot of affordable rental housing redeveloped through this program. So that is another example of the need to listen to the community voice and the wisdom of the community to be able to craft programs that specifically address the needs of those who are the most vulnerable.

So I just wanted to highlight that. And, again, for the Road Home surplus, we are very anxious about what is going to be done with those funds, how much those funds are projected to be, and really making sure that they stay in the program to address the needs of folks who have had errors, through no fault of their own, who received lower grants than they were due. Those funds need to continue to be targeted at those individuals. Thank you.

Senator LANDRIEU. Thank you. Doctor, anything you want to add?

Ms. EHRLICH. Yes, two points. One from what Dr. Duval-Diop just said about low-income applicants to the Road Home program. One of the things that has just thrown so many of these low-income applicants for a loop is changes in determination of eligibility for what is called the Additional Compensation Grant for those who had less than 80 percent of the area median income. Those rules changed midstream. And so many applicants who expected were told, yes, you are eligible. I will not go into the details, but if you want to ask me about them, I can tell you what I know. Those changes in the rules kicked so many people out of that program.

Related to that is that the letters, the award letters for the standard grant that went out, so many people—we do not know the numbers, but there must be huge numbers from the feedback that we get from so many places. So many people who were told you will get a grant for a certain amount of money—here it is on a gold piece of paper, yellow piece of paper. It is called the Gold Award Notice.

So many of those people had their grants strongly downsized because of changes in rules, recalculations, that wasted contractor money, meaning wasting taxpayer money; for no good reason, re-evaluation. And they show up at closing, and many of those people only found out at closing, you are getting $20,000 less; or you are getting $30,000 less.

The last point I want to make about appeals that I did not have a chance to say—and it is a very important point, that this should be the money that has not been spent yet, this is the main thing it should go to is, really, well-revamped appeals, which has been so flawed. It concerns so many of us that LRA recently, a few months ago, said that they would re-open appeals because of acknowledging that there were many applicants who had problems with the pre-appeal process and never had a chance to appeal fairly. And then that procedure, which is written at the LRA website, that applicants who passed the deadline could still continue with an appeal or open up an appeal, that was withdrawn with no public notice and no explanation.

This is very troubling because the most important thing to be done with the remaining money is to fix the grants for people who were short-changed unfairly. It has made a tremendous difference. So many people are facing foreclosure, cannot come back to our State, are in terrible duress because they have been short-changed. Thank you.

Senator LANDRIEU. Well, we most certainly are going to ask that question of the Louisiana program representatives that are here.

Ms. Paup, anything else that you have to add?

Ms. PAUP. The other witnesses have made a number of excellent points, and I echo their concerns with rental housing. It is an issue that has not been fully addressed in Texas. My organization is the client for a University of Texas graduate school class that is researching, particularly, Galveston's rental housing needs, and we will have more information over the summer on that. But nobody is moving forward with re-creating rental housing. And this situation of the rental housing stock is similar to what we have heard about from New Orleans. It is a lot of small—in Mississippi—landlords, and there is not a way for them to recover.

Senator LANDRIEU. Well, I think that is very important for people to really grasp the challenge here. And being this is my hometown, I know a little bit about the city of New Orleans. But if my memory serves me correctly, only about 40 percent of all the residents in the city were homeowners. We had one of the highest rental rates in the United States. I think 60 percent of the residents were renters. But not renters in the traditional sense when you think of suburban America; where people are renting in larger apartment complexes. There are renters in doubles, where a family owns the home but only lives in one side and rents out the other side, or they live in a four-plex, where they own the building. They may live in one unit, but they rent out three.

This is the way many older cities, I think, came to be, and I think along the Gulf Coast it was similar, where you get shotguns and shotgun doubles. We call them camel-back doubles.

Actually, interestingly, my family, my father ended up becoming mayor and secretary of HUD, but our family became homeowners in that way, bought our own home when I was very young and could not afford to live in the whole house. So we lived in one side of it and rented out the other until my mother had her sixth child, and we could not fit in one half. And we had to knock the wall down to take the other part of the house. But I think that our family story is very similar to thousands and thousands and thousands.

How did the Road Home program treat this kind of homeownership in the Road Home program? Was the funding directed for single-family detached homes? And if you had a home that you only lived in one portion of, how were you treated in the Road Home program?

Now, I can ask this question to the LRA folks that are here, but does anyone want to comment or testify to that?

Ms. DUVAL-DIOP. It is my understanding that folks who are in that situation could have chosen to either benefit from the small rental repair program or from the homeowner program, but not both.

Senator LANDRIEU. Even though you lived in one part of the house as a homeowner and rented the other, you could not apply to both programs.

Is that your understanding?

Ms. DUVAL-DIOP. That is my understanding, but I am sure the LRA has a more specific response.

Senator LANDRIEU. OK. Go ahead.

Ms. EHRLICH. To address that, we have heard from homeowners in that situation who applied for the homeowner program. And they went through the program, and then they said, no, you should apply to the rental program. And they discontinued their homeowner application, and then the rental program said, no, you are not qualified for the rental program. Even people who lived in duplexes, it took the State a huge amount of time before they developed rules for duplexes. So people in anything other than the traditional, single-family home had an especially hard time with the Road Home program.

Senator LANDRIEU. Thank you all. I do have questions, but in light of time, and because we want to give the second panel an adequate amount of time to address some of the issues raised, I would like to let you know that I will be submitting some questions to you for the record. The record will remain open. If you can be prompt in your response, and we will follow up that way. But thank you very much for your testimony today.

Ms. DUVAL-DIOP. Thank you.

Senator LANDRIEU. We are going to wait for Governor Barbour, who I understand is on his way. We will take a 5-minute recess while we get some of these other things set up, and I will return in a moment.

[Recess.]

Senator LANDRIEU. If the second panel will take their seats?

Thank you all for joining us this afternoon. We are honored to have a distinguished panel for the response and explanation.

Let me just briefly introduce our panel, and then we have Senator Roger Wicker, who is here, to give a special introduction to the Governor of Mississippi. The panel will begin with comments from Governor Barbour, who will be introduced in just a moment. We will then turn to Paul Rainwater, who is the Executive Director of the Louisiana Recovery Authority. In his role, he serves as the governor's authorized representative to FEMA and the State's chief hurricane recovery advisor, providing direction and daily oversight of Louisiana's recovery from Hurricanes Katrina, Rita, Gustav, and Ike. Mr. Rainwater is very familiar to this Senator, having worked for our office for a while, and has done outstanding work with the Louisiana National Guard. He is a very good leader for this effort, so we are happy to have him.

Charlie Stone is the Executive Director of the Office of Rural Community Affairs for the State of Texas. Mr. Stone has been with this office since 2002 and has assisted in the response to Hurricanes Rita and Ike. We thank you, Mr. Stone.

Finally, we will hear from Fred Tombar, III, our witness from HUD, who will be speaking about HUD's view of this current situation, hopefully what they are doing to assist in improving this situation, and we are looking forward to that testimony.

But let me turn it to Senator Wicker to introduce Governor Barbour. And then before you speak, Governor Barbour, I am going to ask our Ranking Member, who has joined us, if he has any comments before the panel begins.

But go ahead, Senator Wicker, because I know——

Senator WICKER. Well, I will be happy to defer to Senator Graham.

Senator LANDRIEU. OK. Go right ahead.

OPENING STATEMENT OF SENATOR GRAHAM

Senator GRAHAM. I am ranking member, like most people, on three or four committees, and they are all meeting at 2:30. We have the Military Personnel Subcommittee. I am going to have to leave. But I did want to come and just tell the governor of Mississippi you have done a heck of a job. We are really proud of you. I think you have been a model of what leadership is about under tough circumstances. And to everyone else on the panel, you provide a lot of expertise.

To our Chairman, Madam Chairman, you have really informed the Congress in a very important way. You have relevant hearings. I have learned a lot, and I look forward to working with you. The Community Development Block Grant Program, if we can make it better, if we need to replace it, let me know. But the more flexibility to the people in harm's way, the better, as far as I am concerned. And I just wanted to acknowledge Governor Barbour for the service you have provided the people of Mississippi and really the country at large, and look forward to helping you.

Thank you, Madam Chairman, for having this hearing. I will leave in a minute, but glad to be with you.

Senator LANDRIEU. Well, thank you. And I know everybody's schedules are particularly busy this week.

Senator Wicker.

STATEMENT OF HON. ROGER F. WICKER, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator WICKER. Thank you, Madam Chairman. I am certainly delighted to be here today with Governor Haley Barbour. Let me say, Senator Thad Cochran would like to have been here also, but he is handling the Supplemental Bill on the floor. So I am standing in place of the senior Senator.

I appreciate Governor Barbour's service and leadership to the State of Mississippi and to the Nation. There is a great deal of insight that can be learned from Governor Haley Barbour's exemplary leadership during Hurricane Katrina, and I hope the Subcommittee will find his testimony useful in moving forward to determine the role of the Community Development Block Grant Program in disaster recovery.

I want to commend the Chairman and the Subcommittee for having testimony from various viewpoints, and I am glad that another fellow Mississippian is here today. My schedule prevented me from hearing Reilly Morse's testimony, but I was able to review his prepared statement.

Every Mississippian remembers where they were and what they were doing on August 29, 2005. Hurricane Katrina came ashore as the worst natural disaster ever to hit North America, not just Mississippi, but the entire continent. Its 30-foot storm surge and winds of over 125 miles per hour changed the entire Gulf Coast forever. And in spite of the enormous challenges Hurricane Katrina placed on Mississippi, it gave us an opportunity to prove to the rest of the country the strength, perseverance, and pride of the people of our State.

After the storm hit, as a member of the House Appropriations Committee at the time, I worked closely with other members of the Mississippi congressional delegation, Senator Cochran and Governor Barbour, to craft a disaster recovery bill that adequately met the needs of all States impacted by the storm.

As we worked to draft a bill, it became evident that the disaster recovery funds needed to be flexible so that States could identify and respond to their most pressing needs. Immediately after the storm, Mississippi faced the challenge of rebuilding communities from the ground up. When you are faced with that challenge, the priorities quickly change and the recovery process constantly evolves.

The congressional intent of the CDBG for Hurricane Katrina-related recovery is clear. It was designed to allow State leaders, such as Governor Barbour, to work with mayors, county supervisors, and other State officials in coordination with HUD administrators to allow flexibility in the rebuilding process. State and local leaders understand the rebuilding needs more than a bureau official in Washington, DC, and I believe this is a key reason why the CDBG program has been effective in Mississippi.

In the first wave of CDBG funds for Hurricane Katrina-related recovery, the HUD secretary is specifically authorized to issue waivers from previously enacted CDBG regulations to allow the use of such funds for "the necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure" directly related to the consequences of Hurricane Katrina. In general, the Emergency Supplemental Act states that at least 50 percent of the funds must primarily benefit homeowners with low to moderate incomes. Indeed, as Governor Barbour will testify, to date, Mississippi has used over 70 percent of its CDBG funds on housing-related projects.

Recently, there has been some discussion about the State of Mississippi's use of CDBG funds for the rebuilding of the Port of Gulfport. It is indeed clear that the use of CDBG funds to rebuild the Port of Gulfport is consistent with the intent of the law, since the project is a necessary expenditure resulting from Hurricane Katrina and is needed to restore infrastructure in addition to addressing the long-term recovery needs of Mississippi.

Chairman Landrieu, I want to commend you for having this hearing today on the role of the CDBG program in disaster recovery. Although the program was not initially envisioned as a disaster recovery program, it has turned out to be the best mechanism to move Federal dollars to the State in circumstances such as Hurricane Katrina.

The program is certainly not without its problems and flaws. As you will hear today, some of the waivers are problematic and the use of CDBG funds for disaster recovery purposes is far from perfect. That is why I am glad the Subcommittee is holding this hearing today. I want to commend the Chairman for your Subcommittee's work and commitment to improving disaster recovery and response. Much has been accomplished, but we still have more work to do. As the Chairman well knows, the media coverage may have diminished, but Hurricane Katrina is far from over. Thank you very much.

Senator LANDRIEU. Thank you very much. I appreciate it.

Governor Barbour, why don't you go ahead and begin. I appreciate if you contain your comments to about 5 minutes, and then we will have lots of opportunities for questions and comments.

STATEMENT OF THE HON. HALEY BARBOUR,[1] GOVERNOR OF THE STATE OF MISSISSIPPI

Governor BARBOUR. Thank you, Madam Chairman. And to the Ranking Member, thank you for allowing me to be here today. Senator Wicker, I am grateful for your very generous introduction.

When Hurricane Katrina hit almost 4 years ago, it obliterated everything in its path in Mississippi. It is like the hand of God had wiped away the coast. And it was clear that in this utter destruction that this is not a standard disaster, and the standard disaster laws were not going to cover it. The Stafford Act was not designed for mega disasters.

On November 1, 2005, Mississippi submitted its recovery plan to the Administration, to the Congress, to our legislature, and to the public in Mississippi. And, Madam Chairman, I believe you have a copy of that plan.

We thought at the beginning we would be asking for help from different Federal agencies. We were not smart enough in our Mississippi government to realize that Chairman Cochran and Chairman Landrieu and some others would realize that this CDBG program would give much more flexibility. So instead of asking DOT to fund our poor and asking this agency and that agency, you gave us $5.481 billion of CDBG money with maximum flexibility. And hundreds of times since then, I have praised Congress for allowing us the latitude to set Mississippi's priorities rather than to have to do what were Washington's priorities. And that could never had happened without the CDBG program.

Senator Wicker has mentioned one of the very important things about this is we were focused on a comprehensive recovery and that Congress recognized to do so. HUD had to be required to waive. There is language in the bill, the law, that says the secretary "shall" waive various things, and that allows us to go forward with a comprehensive recovery.

We formed a governor's commission on recovery, rebuilding and renewal, and much of our program stems from what that commission said that they thought we should do. We are about rebuilding communities as a whole, infrastructure, economy, and, yes, housing. Housing has been and remains our top priority.

I realize that different people can cut the numbers up different ways. Our view is that 71 percent of our CDBG money has either

[1] The prepared statement of Governor Barbour with attachments appears in the Appendix on page 101.

gone directly or indirectly to housing. I think the couple of difference is we have two major indirect programs, two major programs that benefit housing indirectly. One is our regional wastewater and water to allow people to move away from the coast. We had to spend an enormous amount of money to put in water or sewer because we just could not have thousands of new homes with septic tanks. All that water flows in the same direction. It goes south toward the Gulf. So we had to have regional water, wastewater, sewage treatment, in order to allow people to move inland.

Second, we have a repair mitigation program that saved homeowners and others about $440 million because our utility rates would have gone up 35 percent had we not been able to treat our investor-owned utilities the same as the co-ops. So we have a little bit different figures there just based on different categorization.

We have recently completed a housing study. We have put a tremendous amount of money into housing that is in here, into our homeowner grant program, which was our beginning program. But we have learned in the last several months that the biggest issue for housing on the Mississippi Gulf Coast today is not lack of housing units. We have about 4,000 houses for sale in the bottom six counties of Mississippi, and we have hundreds and hundreds of empty apartment units. The problem is, the people that are left in FEMA housing and in Mississippi cottages cannot afford to pay market rent. They are people who much have deep subsidy HUD vouchers. They were living, many of them before the storm, in 80-year-old houses that had no mortgage, no insurance, and they were paying $100 to $200 a month. You cannot build to the building code, and insure it, and have any housing like that today.

One of our big requests before the Congress today is for us to receive 5,000 vouchers, deep subsidy vouchers. Louisiana was ahead of us on this last year, but we waited, frankly, until the order came for people to evacuate the FEMA housing because now we have more than 4,000 families that are going to have to find a place to stay.

The flexibility of the CDBG money is enormous to us. We designed the program coming in and asked Congress to allow us to go forward with it. And as you can see, Madam Chairman, virtually everything we have done in Mississippi was in the November 1 plan, whether it was the port, whether it was regional wastewater, whether it was homeowner grant program, or low-cost rental housing. And the CDBG program has made that possible.

Let me just make one point. The deeper we have gone into the recovery after the storm, the less HUD has been willing to waive the CDBG rules. We had five major waivers early on. Three of them were not renewed after their 2-year period. Now, the good news is that HUD said they were not renewing them because we did not need them; that is that we did not need the low-mod waiver again because they were comfortable that we were serving low to moderate income at a level where that was not needed.

I will close, ma'am, by saying this. In addition to the 5,000 housing deep subsidy vouchers, with which we have talked to the Administration and they have been very positive about recognizing the need, we also—just as you had to get the levees rebuilt in and around New Orleans, we need to get the barrier islands rebuilt.

The Corps of Engineers was ordered to conduct a study in the December 2005 fist emergency supplement for Hurricanes Katrina and Rita, and that study is now done. And we have very patiently waited and said we are not going to ask for the money until the Corps has done the study.

Well, the study is done now, and we particularly need the part of that study funded that rebuilds the barrier islands. They are the speed bumps that knock down hurricanes. You have levees to protect you. We have beach facing the ocean. But those speed bumps matter. Remember, Hurricane Katrina, before it crossed the mouth of the river and came up the edge of Louisiana and hit the Chandeleurs, was at one point a Category 5 hurricane. It hit Mississippi as a Category 3 hurricane. Unprecedented storm surge, but the wind was down 155 miles an hour.

The other thing that we need, we have talked about to this Subcommittee before, is for FEMA to allow us to use some of our hazard mitigation money for survivable and interoperable communications. But that is not CDBG money, ma'am, so I will not bore you with that subject.

Senator LANDRIEU. Thank you, Governor. I appreciate it. Mr. Rainwater.

STATEMENT OF PAUL RAINWATER,[1] EXECUTIVE DIRECTOR, LOUISIANA RECOVERY AUTHORITY

Mr. RAINWATER. Thank you, Madam Chairman. It is very good to see you. Senator Graham and Senator Wicker, thank you. And, Senator Landrieu, thank you so much for the support that you have given the State of Louisiana, as we will recover now from four storms, Hurricanes Katrina, Rita, Ike, and Gustav.

You mentioned the numbers earlier, and I will not go through them again, but 240,000 homes destroyed; 82,000 apartment units, small rental, mom and pop renter units destroyed. Right now, 4 years after the storm, we have 2,700 people in Louisiana who are still living in FEMA trailers, and 26,000 people are still living in the Disaster Housing Assistance Program, a transitional closeout program, which, by the way, thank you for your support in getting that extended. And we also thank Secretary Donovan for all the hard work. He heard very quickly what was happening with the Disaster Housing Assistance Program and helped us in Louisiana, and we are transferring people right now.

But in the aftermath of Hurricanes Katrina and Rita, obviously, we have received $13.6 billion in Community Development Block Grant money for disaster recovery. We broke that up into three different main programs. One was our Road Home program. Two was I think some housing programs, which was Road Home, Small Rental, and what we call a piggyback program, which was taking low-income housing tax credits and taking Community Development Block Grant money and laying that over the top.

Then, last but not least was our economic development program, which our State carved out a small pool of about several hundred million dollars to help with grant loan programs, technical assist-

[1] The prepared statement of Mr. Rainwater with an attachment appears in the Appendix on page 120.

ance, workforce development. But the business need, as you know, dwarf the funding. More than half of the businesses in New Orleans had been affected by this storm in some form or fashion, either the actual facility damaged or, obviously, folks were closed down for months and months. We never got the money we needed for economic development, but our first priority in Louisiana was recovering—basically, our cornerstone to recover was the Road Home program, which has been mentioned here today.

To date, we have closed 124,000 grants in the Road Home program. Since the beginning of January 2008, we dispersed more than $2.2 billion to 28,400 applicants; $822 million of that was a very creative elevation grant program that we started. And I will tell you that we revamped the appeals process. You hear it quite a bit, but in the old program there was what was called a dispute resolution program. We got rid of that. We set up a two-tier appeals process, one at the contractor level and then another one reviewed by the State itself. It is taking 60 to 90 days to run through that appeals process. We manage it everyday.

We also went out and did more than 20 outreach sessions to the poorest of the poor, elderly. I took entire staffs out, over a hundred staff people, to 20 different locations around this State, many of those in New Orleans and St. Bernard, attorneys, policy folks, and just sat down and worked through Road Home issues.

Now, is it a perfect program? No, it is not. And I did not write the rules. I thought it was cumbersome. There have been many conversations about what has been the best way to do it; should it have been a rehab program or a compensation program? And we ran a compensation program. A rehab program might have taken a little bit longer, but people would have had been paid out what they were owed.

What we did is we just filled a gap. That is what those dollars were meant for. And I think in many ways, there was an over-expectation about what Road Home could or could not do. But nonetheless—very quickly, in our small rental program, last year, when we took over this program, there were only about five closings that have occurred or five units that had opened in the small rental. We are up to 1,400 now, and we are getting ready to adjust the program to advance payments to those mom and pop renters who want to get back into the academy in New Orleans and live that American dream. And so that is what we are focused on.

Our piggyback program which pares the CDBG money, what goes on in low-income housing tax credits, which, by the way, two of the big four are using piggyback programs, we have worked very closely with HUD on that. We have created more than 7,548 rental units State-wide, 2,364 of those in the city of New Orleans. We have another 5,230 units that we feel are going to open at the end of this year.

So there are some success stories. Is it a perfect program? No, it is not. But we have transitioned the Road Home program, and all our three programs, to a new contractor. We have broken that contract up into three different pieces. And I will tell you, that there were over 19 performance measures in the three contracts that require very tough measurements on behalf of the companies, and performance standards at the beginning so that everyone knows what is expected at the beginning of their contract.

Thank you, Madam Chairman.

Senator LANDRIEU. Thank you very much. Mr. Stone.

STATEMENT OF CHARLES S. (CHARLIE) STONE,[1] EXECUTIVE DIRECTOR, STATE OF TEXAS, OFFICE OF RURAL COMMUNITY AFFAIRS

Mr. STONE. Madam Chairman, my name is Charlie Stone. I am the Executive Director with the Office of Rural Community Affairs. And for clarification, I just want to say that my agency is responsible for the non-housing disaster recovery activities. In the State of Texas, we have two sister agencies that respond to disasters designated by the governor of the State. We have the Texas Department of Housing Community Affairs that handles the housing disaster recovery, and we do the non-housing.

I want to get straight to the point since we are limited in time. I do not want to read the testimony, but you raised a very important point in your remarks earlier today, and I think it has already been addressed by several people. The question was, is CDBG the right program for disaster recovery and response? And I will agree with every testimony that we have heard so far. We do believe CDBG is the correct program. We know it is the most flexible, and we have had great success with it, although it is not a perfect program.

So I want to talk about some things that we could do at the Federal level to make changes to the program in order to make the CDBG program one that would be more effective and more responsive, and keeping in mind who we really serve. We serve the people who have been most devastated, the cities and the counties who have been devastated by disasters.

I have a Texas-sized chart to my left.[2] We had to bring one in.

Senator LANDRIEU. I was noticing that. Everything is bigger in Texas.

Mr. STONE. Well, we wanted to prove that is still true, so we brought this chart. This top time line that you see on the chart—Madam Chairman, you also have that in your handout. It is on three pages, but it is on this chart. This is a living time chart for our response to Hurricane Rita and that time line, in all honesty, is just too long. What you are looking at represents all the nuances that we have to go through to get CDBG funds out the door, and that is in effect for all 50 States.

Basically, just to give you an overview of that, it took us about 360 days to complete all of our Davis-Bacon Act requirements in order to get contracts out and operational. It took us 486 days to complete all of the environmental review contracts and get those done; 685 days, after Hurricane Rita struck Texas was when our first expenditure of non-housing CDBG dollars actually took place; 1,194 days, we had 88 percent of the funds distributed.

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[1] The prepared statement of Mr. Stone with attachments appears in the Appendix on page 130.

[2] The chart referred to appears in the Appendix on page 137.

If you look below, we have another chart.[1] Actually, now the time line goes to May, and we did not have time to put that on there, but we are at 95.6 percent expended for non-housing funds in the State of Texas. That is 3 years and 7 months after Hurricane Rita hit the Texas coast, and that is entirely too long.

So the question then is, what is with the lower chart or how do we get to the lower chart? Well, that lower chart represents what we think we could do with CDBG dollars for non-housing issues and recovery if we incorporated some of the changes that I have recommended to you in my testimony.

These changes are not things that we came up in a vacuum in the State of Texas. I serve on the board of the Council of State Community Development Agencies (COSCDA) which is a nationwide organization made up of all 50 States. Under COSCDA's leadership, we brought eight States together, including your State, using their CDBG staff who reviewed these proposals with us, including Mississippi, Alabama, Florida, Ohio, Wisconsin and California. We came up with a proposal, which we have as part of this testimony, that we believe we could have done on this second chart, which means that 12 months before Hurricane Ike hit the Texas coast, we would have been completely finished with disaster recovery on non-housing issues in Texas. Believe me, that would have been a dream come true if we could have done that.

What we are proposing are changes to Title I of the Housing and Community Development Act of 1974 as amended.[1] In the handout that I gave you, I am not going to read it all because my time is rapidly going away, but I will say that two primary things that need to be done is that we need to look at CDBG from the standpoint if it is used to handle a mega disaster, then changes need to be made to the statute.

Basically, we are asking for two primary key things that need to be done. One is to waive—for disasters over a billion dollars, Davis-Bacon requirements for just 12 months. Not eliminate them. We know that is a good law and it needs to be in place for the regular CDBG program, but when we have a mega disaster, we do not need to be weighted down with Davis-Bacon acts. We need to put people's lives back together.

The other thing that is most important is that the environmental review takes too long. We feel in the State of Texas, and all of these other States too, that disasters need to be exempt from environmental review, when it is necessary, to control risk or recover from the effects of disasters or imminent threats to public safety. We are just asking for a 12-month window to get these program funds out quickly as possible.

All of the other recommendations that are in here, a lot of these are codifications. I will not go through those but I can answer questions later on other things that need to be changed. We have made some good recommendations, Madam Chairman, and I will be happy to answer your questions.

Senator LANDRIEU. Thank you, Mr. Stone. I am very happy to hear that this proposal is going to come forward by you and several

[1] The chart referred to appears in the Appendix on page 138.
[1] The copy of the bill submitted by Mr. Stone appears in the Appendix on page 146.

other States that have been involved in trying to help come up with a better more expedited approach. I am looking forward to learning more about that. Thank you.

Mr. Tombar.

STATEMENT OF FREDERICK TOMBAR,[1] SENIOR ADVISOR, OFFICE OF THE SECRETARY FOR DISASTER AND RECOVERY PROGRAMS, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. TOMBAR. Thank you, Chairman Landrieu, for hearing my testimony today. I am Fred Tombar, and I am a Senior Advisor to Secretary Shaun Donovan at HUD. It is my honor to join you today to discuss the administration of the Community Development Block Grant (CDBG) funds for disaster recovery following Hurricanes Katrina, Rita, Gustav, and Ike.

On behalf of Secretary Donovan, I want to express HUD's commitment to seeing the Gulf Coast recovery through. That commitment began with our efforts to ensure that disaster survivors receiving assistance through DHAP were able to make a smooth transition off of that program. We worked with your staff, Madam Chairman, and FEMA, to provide additional assistance to families through August 31, 2008. Also, on March 5, 2009, Secretary Donovan joined you and Secretary Napolitano on a trip to the Gulf Coast to see firsthand the state of the recovery. I want to tell you that President Obama and Secretary Donovan are both committed to helping the Gulf Coast fully recovery.

Since 1993, CDBG funds have been a tool for disaster recovery activities in States and communities. Once an appropriation has been made, HUD responds quickly to allocate the funds. As you pointed out, Chairman Landrieu, there have been three supplemental appropriations of CDBG funds to the Gulf Coast since Hurricane Katrina made its landfall on August 29, 2005. The first appropriation was $11.5 billion. The next in June 2006 was $5.2 billion. And the final was $3 billion, specifically to close gaps on the Road Home homeowners assistance program.

I am pleased to report that, to date, a total of $19.673 billion in CDBG funds has been appropriated for the five Gulf States to fund housing programs, totaling over $15.4 billion or 73 percent. To date, the States have expended $12.2 billion in CDBG recovery activities. Over $11 billion has been dispersed for housing assistance activities. That is nearly 89 percent of all funds expended towards housing activities.

The first two CDBG supplemental appropriations were clear in their intent and conferred flexibility on the States. As Governor Barbour pointed out, the first CDBG supplemental stated that HUD must waive all regulations and statutes that would hinder implementation of States' plans. Only four areas were exempt from that mandate, though: Fair housing, environmental review, civil rights, and labor standards.

The second supplemental bill modified the direction on waivers to States that HUD may approve waivers. As Congress intended, the eligible States have substantial flexibility in designing their

[1] The prepared statement of Mr. Tombar appears in the Appendix on page 140.

programs, establishing funding levels, and carrying out activities to achieve their goals. This approach has allowed each State to tailor its recovery programs to best address the needs of its citizens. HUD's primary role has been to provide technical assistance and to monitor the use of those funds.

The Secretary of HUD has pledged to work with States on a case-by-case basis to waive rules when possible. HUD is also working with the Administration to analyze disaster response recovery tools, nationwide, to identify needs for improvement.

With respect to Hurricanes Gustav and Ike, these storms delivered a second blow to areas that had been struck by Hurricanes Katrina and Rita. Congress appropriated an additional $6.5 billion in CDBG disaster recovery funding in September 2008. Of this amount, as you noted, $2.145 billion has been allocated to 14 States with the largest going to Texas, Louisiana, and Iowa. Secretary Donovan intends to allocate the remaining funds that you asked about in the very near future, once we complete our allocation review process.

HUD's goal was to quickly get the money to the States so that they could begin using the funds for their recovery efforts while retaining our financial oversight role. Following an appropriation of CDBG funds for disaster recovery, HUD publishes a notice in the *Federal Register* that contains the allocation of funds and program requirements, including waivers requested by the States and alternative requirements. Subsequent notices are published as HUD grants additional waiver requests from States. Unless there has been a significant policy or legal issue, HUD has reviewed and responded to those additional waiver requests very quickly.

While not everyone agrees with every program choice that a State makes, HUD has found overall compliance with program and financial rules to be very good. A continuous improvement process regularly evaluates obstacles and seeks both short and long-term solutions. In addition, fraud and abuse has been minimized thanks to the collective diligence of Federal, State, and local officials.

As I said in the beginning of my testimony, and others on this panel have attested, CDBG recovery funds have been critical as a tool for assisting States and communities. CDBG has an advantage of providing flexible funding with State and local decisionmaking and responsibility. The challenges are that the disaster recovery activities can be complex, require tough local decisions, and may require grantees to acquire additional capacity to carry them out.

Thank you for the opportunity to appear before this Subcommittee. This completes my testimony, and I look forward to your questions.

Senator LANDRIEU. Thank you very much. And I really appreciate you keeping what could literally be hours of testimony to 5 minutes. I will continue to have as many hearings as it takes until we get this correct.

I think we all can agree that a lot of progress has been made, and that while the Community Development Block Grant Program is the most flexible available, I think that I heard all of you say that you would suggest some changes to the program.

Is that a correct interpretation of what I have heard? Does anyone disagree with that?

So what I am hearing is that while it may be the most flexible program, it could be changed or modified to be even more effective. That is what I hope the outcome of this hearing will be, to try to find some specific suggestions along those line.

Mr. Stone, and let me clarify for the record, we asked the governors of the States to testify. Each governor made the decision. You were recommended by Governor Perry. I did not know that you were not the housing person, so I am sorry. But you are the CDBG person, and your testimony is still going to be very well received, and hopefully we will have an opportunity for the housing person from Texas to testify.

Let me, though, ask this of HUD, perhaps. And I am on the Appropriations Committee, as you know. I do not know and cannot quite put my hands on the formula that is in place under the law that would drive the initial allocation to States after a disaster. As you may remember, it seemed that those decisions were not necessarily driven by formulas at the time.

So one of my questions to you, Mr. Tombar, and perhaps, Governor Barbour, would be how would you recommend the Federal Government distribute Community Development Block Grant funding in the aftermath of a disaster? Should it be based on the number of housing units lost, single family homes, the number of total units lost, or should it be based on the number of houses lost plus the number of businesses lost?

Should it be based on the number of people displaced? Because part of my struggle is going back to the beginning of this, how those funds were initially distributed. And I am not sure that we have come to any consensus about that yet. And it is something that HUD is going to have to quickly come to a consensus about in the event that we are faced with another catastrophic disaster, hopefully not, in this hurricane season.

So I am going to just throw this question out for your comments. I have a document here that I am going to submit for the record.[1]

Senator LANDRIEU. We went through, after Hurricanes Katrina and Rita, and estimated—and this is all from FEMA information—number of lives lost; number of people displaced; number of homes destroyed as between Louisiana, Mississippi and Texas; number of hospitals destroyed; number of schools destroyed; number of flood insurance claims; number of SBA loan applications; total insured losses; total uninsured losses; and total number of jobs lost.

So my first question would be, given that there is no real formula for distribution under the disaster Community Development Block Grant—now, under the regular Community Development Block Grant Program, there is a pretty tight formula. I think that formula is based on population and some weight for need or income. If I am correct, there is some rigorous formula applied that directs how much money goes to each State and each city under the regular program?

Mr. TOMBAR. Yes, ma'am.

Senator LANDRIEU. But under the disaster program, is there such a formula?

[1] The information of Senator Landrieu appears in the Appendix on page 146.

Mr. TOMBAR. No, there is not. And part of the reason is because disasters vary so greatly. And the last appropriation, the one that you mentioned, covered floods in Iowa and Indiana as well as hurricanes that devastated Louisiana and Texas, and ice storms that hit other States. So the type of damage caused by disaster, a federally declared disaster, varies. And, therefore, the type of assistance that may be needed and how we go about calculating equitably how that assistance is distributed varies.

Senator LANDRIEU. And I can appreciate that disasters are very different in terms of their scope and nature, in terms of hurricanes versus tornados, versus ice storms, versus earthquakes. But you are not testifying that you do not think that there is an equitable way to distribute the funding. You are testifying that we do not yet have such an equitable way. Is that correct?

Mr. TOMBAR. Well, what happens is—and this past allocation is indicative of it—the Congress has given the Secretary direction as to what types of things it would like the Secretary to prioritize when making the distribution. And so, if I remember correctly, in this last 2008 allocation, appropriation, it was for economic impact for housing loss and for business, I think loss of business, some impact on business. Those are factors that are taken into consideration.

Part of the reason—you mentioned that we have been a little deliberate in getting out the balance of the 2008 allocation. Quite frankly, part of the reason is because Secretary Donovan is taking seriously this question, this very question that you are asking. And that is, how best to allocate the money looking at the range of things that happen in a disaster, the range of the disasters that happens. But most importantly, how do we go about doing activities that would, in fact, prepare States and communities for the next disaster. Because what our experience has shown is that those States that are likely to get disaster funding are likely to get hit by a disaster again, we are here talking about Hurricanes Ike, Gustav, Katrina, and Rita. And as I pointed out in my testimony, Hurricanes Ike and Gustav sent a second blow to some of those same communities that were hit by Hurricanes Katrina and Rita.

So preparing those communities for the next disaster is one of the things that the Secretary is looking to do with CDBG funding.

Senator LANDRIEU. Governor Barbour, let me ask you if you have any recommendations as to how Congress might—in a catastrophe like Hurricanes Katrina or Rita, that hit multiple States, multiple parishes, multiple counties—how would you suggest Congress equitably allocate that funding to make sure that Mississippi receives its fair share, Louisiana receives its fair share, and Texas receives its fair share?

Do you have any recommendations based on the experience that you have been through the last 4 years?

Governor BARBOUR. Yes, ma'am.

Madam Chairman, you may recall at the time, some of the things that were done with CDBG money for Hurricanes Katrina and Rita had never been allowed before. Florida had four hurricanes the year before. They had no housing grant program. They had no Home Again or Road Home program.

What we did in Mississippi, and what I really suggested at the time when asked by others, we prepared a plan that we thought if you took what Mississippi was entitled to under the Stafford Act, what was not covered, what magnitude, and what would it take to cover it, and we literally prepared a plan and presented it. And I do think the best way for Congress and the Administration to equitably do this is not to try to come up with some mathematical formula or some rigid guideline, but to force the States to say this is what we need, and then to scrub it. And States may be unreasonable or excessive or not know what they are talking about. But that to me is the best way to do it, to do it on a one-by-one basis. Obviously, this is not going to be done for every disaster. I assume it is only going to be done for the mega disaster, the giant disaster.

So that was the way that I thought at the time, and nothing has made me think differently. Make the State prepare a plan and let the Federal Government decide if they think that is reasonable and how much of it, if any, should be funded.

Senator LANDRIEU. Well, that is very interesting, and this is a very critical question that HUD and the new President has to consider. The governor has just testified that, in his view, when a major catastrophic disaster hits, he has qualified his statement to say—maybe not in every disaster, but in a catastrophic disaster—governors should be allowed to actually assemble a plan of recovery, present it to the Federal Government, have it looked at thoroughly but in a short amount of time, and then basically fund it.

When Governor Barbour did that, and he presented his plan to Congress—and his plan, which I think you have given me a copy of, was a $5.5 billion plan—Congress actually did that and gave Governor Barbour $5.5 billion. And he has testified so far he thinks it has worked out pretty well. There are critics of the plan that testified earlier that have a different view, but nonetheless, that is where we are.

But that did not happen in Louisiana or Texas for any number of different reasons. Neither State was told that they could submit a comprehensive plan and they would have any chance of getting it funded, just for starters. Now, this is going back to a previous Administration. And I would think that if you asked all 50 sitting governors today if their State was catastrophically damaged in some way, do they think they could just submit a plan to the Federal Government and expect it to be 100 percent funded, or 95 percent funded, or 85 percent.

I do not think there is a governor, other than Governor Barbour—because this was his experience, so I can personally understand how you believe this. But I do not know if there are 49 other governors that would think that they could just send a request in for very flexible money to rebuild their homes, rebuild their ports, rebuild their sidewalks, their infrastructure, workforce development, and rate reductions for electricity.

So that is the problem here. I am trying to figure out a way for our Subcommittee to recommend to the Administration, and they are going to be figuring this out themselves, what happens the next time there is a catastrophic disaster, and how do governors come to understand what they may or may not be entitled to, to get their States, their counties, and their parishes back up and running.

Mr. Rainwater, do you want to comment about how the State of Louisiana got kind of pushed into its position? And then maybe tried to pull yourself out?

Mr. RAINWATER. Madam Chairman, from the perspective of—and you are absolutely right. With Hurricanes Katrina and Rita, I mean, obviously the first and third largest disasters in American history. Working with you to get the $3 billion in the last tranche, if you look at the way we were funded, very difficult to even put programs together.

It was interesting because as I heard the first panel testify, folks talked about changing rules, the first rules were designed because of budget. And then when you think about the concern that the State had, and what it said is let's put together a compensation program and just try to fill gaps because we cannot fix every home to the pre-storm value. It is going to be impossible.

If you really shake out and you look at the policies, and you look at what happened and what did not happen in Louisiana, literally, the primary concern was do we have enough money to fix all the homes in the levee-protected areas, and then those homes impacted by Hurricane Rita.

Senator LANDRIEU. And how much money did the State get in the first tranche? Mississippi got its $5.5 billion and how much did Louisiana got?

Mr. RAINWATER. Six-point-two billion in the first——

And then we got $4 billion, and then the $3 billion in——

Senator LANDRIEU. And you got the $4 billion how many months after the first? Do you know?

Mr. RAINWATER. About 6 months.

Senator LANDRIEU. Six months.

Mr. RAINWATER. Yes, ma'am.

Senator LANDRIEU. So the Mississippi money came in one tranche. Two tranches? What was your first?

Governor BARBOUR. We got right at $5.2 billion, out of the first pot, and a little less than $300 million——

Senator LANDRIEU. Three hundred million.

Governor BARBOUR. Yes, ma'am.

Senator LANDRIEU. Out of the second pot.

Governor BARBOUR. Out of the second. So of our $5.481 billion, about 95 percent of it was in December 2005. The balance was in the second supplement.

Senator LANDRIEU. And then yours was really in three major——

Mr. RAINWATER. Yes, ma'am. And if you think about the way that the dollars came down and the way the recovery authority allocated those dollars, I mean, it was not until 2007 when you were able to get the last $3 billion to complete the Road Home program that the State was able to put together $700 million for local communities to do long-term community recovery programs. And so it is very difficult to put together a budget in such a devastated area when you are trying to take care of rentals, you are trying to take care of the larger complexes, you are trying to take care of infrastructure.

Now, I will tell you for Hurricanes Gustav and Ike kind of a different story. We felt very comfortable with the way—and HUD communicated very well with us about what was going to happen in that first round, which we got $435 million. It was based off of housing damages. So we were able to communicate with parishes because we made a very different decision on how to manage the Hurricanes Gustav and Ike dollars; we are going to push it down to local governments. And I will tell you that there are many public hearings happening throughout coastal Louisiana and throughout the 43 parishes that were impacted.

So we were able to look at housing in that first round of dollars. The second round is based off of infrastructure damage. And so we are able to plan a little bit better versus the Hurricanes Katrina and Rita allocations, where you did not really know what was going to be funded and what would or would not be funded, whether it was infrastructure where you could fund economic development, small rental, or complete a homeowners program.

Senator LANDRIEU. What was the experience, Mr. Stone, in Texas with your allocations? How much did you receive, in how many different tranches, over how long a period of time?

Mr. STONE. Well, Hurricane Rita, we had two tranches of money. The first one that came to us was only about $72 million, and that was way short of what we needed. And so, 11 months later, we received $428 million which 90 percent went to housing at that time. Then, for Hurricane Ike, we received $1.3 billion for the first tranche.

I would like to also comment, we have heard, at least Texas has been told, that HUD will have a formula to distribute the rest of the Hurricanes Ike and Dolly hurricane funding for 2008, but we do not know what factors are being considered. We will not have an opportunity to comment so it is money that will show up and we will try to use it the best we can. It would be nice if the States had an opportunity to comment. The governors would be very interested in being able to put a plan forward to utilize the money.

Senator LANDRIEU. And I would second that and really ask HUD to listen carefully to the Texas situation.

I just want to call your attention to this chart,[1] which is a little bit troubling. And maybe Mississippi would object to the way these numbers have been done. But we took the numbers of housing units damaged, based on FEMA documentation, not something that our office came up with, and compared that to allocated funding. And you can see that on houses damaged, Louisiana had 67 percent of the damaged housing units along the Gulf Coast that resulted from Hurricanes Katrina, Rita, and Wilma. We got 68 percent of the funding. Mississippi had 20 percent of the damaged housing, but got 28 percent of the money. Texas, Alabama, and Florida had 13 percent of the damaged housing but only got .4 percent of the funding.

Now, according to this, you could suggest that Mississippi got slightly more money if you did it by housing, and Texas was substantially short-changed.

Now, this is only one way it could be calculated. It could be also calculated on numbers of businesses lost, amount of uninsured damage relative to insured damage, infrastructure damage, or a combination of the above. But I am strongly suggesting that we

[1] The chart referred to appears in the Appendix on page 145.

come up with a way that we can equitably distribute this block grant to States that are hit, sometimes simultaneously, by the same storm, or go to a Governor Barbour approach, which is after the storm, let the governors and the county commissioners calculate what they think they are owed, and submit a proposal to the Federal Government, and it is understood that the Federal Government is going to fund 90 to 100 percent of it. I mean, that could be a plan. I think governors and local officials actually like the second one better than the first one I have outlined. But there has got to be some decision made about that.

Then, second, as the first panel testified, what, is the approach or the focus to repair as much housing as possible, given that is a very important part of recovery, or is it for infrastructure, since you have to have infrastructure repaired, streets, roads, and sewer systems, in order for people to rebuild, or is it for economic development, which is also an important component of recovery?

So I would like to maybe ask Mr. Tombar—we only have a couple more minutes—what are some of Secretary Donovan's thoughts about this, or your own, about recovering from a storm? What is the higher priority? Is it housing, health care, schools, infrastructure, or economic development? And if it is housing, is it your homeowners that serve as your primary tax base, or is it renters that perhaps need more help than homeowners? Is it the lower-income renters or the middle income renters?

Mr. TOMBAR. That is a very loaded question, but I will do my best with it. But, if I could, I would like to point out that the allocations that you point to there have little to do with need. There was in the appropriation itself specific language that limited the amount that HUD was able to distribute to any given State, which caused a cap on the amount that the State of Louisiana could get, which, therefore, did not make their——

Senator LANDRIEU. You are talking about the initial tranche, right?

Mr. TOMBAR. Yes, ma'am, which was the largest tranche of all that you are talking about here.

Senator LANDRIEU. I am familiar with that arbitrary cap placed on allocations to States by Congress.

Mr. TOMBAR. So that directed, in large part, is how the Department could go about distributing the money.

But to your question about the better way to do it, as I have mentioned already, Secretary Donovan is taking seriously this question, himself looking at it. We are the Department of Housing and Urban Development, and so we do believe that—and the CDBG program was set up to help with housing and development. And so, those are two of the things that we certainly want to focus on.

There has been discussion, even over this last allocation that came through in 2008, about making more money available for infrastructure in some of the cases. That is a resource that typically is provided by the Federal Emergency Management Agency. And so, while we see that HUD's money and CDBG could support those activities, the Secretary has and will continue, I think, to make a priority on housing and economic development.

As you acknowledge yourself, there are different ways to look at it—business loss, the loss of jobs and other things that may drive it. And so, we are trying to be as robust as we possibly can, gathering as much data as we can. And that is the real challenge here, Senator, is that data, access to data that is conclusive, that is universal across all of the disasters, is important if we are going to be equitable in the distributions that we make of this money.

Senator LANDRIEU. OK. Well, that is a very important point.

I know our time is somewhat limited.

Mr. Rainwater, you want to add something? And then I am going to ask each of you for any kind of closing comments or something you would like to include in the record before we adjourn.

Mr. RAINWATER. Thank you, Madam Chairman. One of the challenges I think—and we have talked about this before in this catastrophic annex. And the reality of it is, FEMA public assistance, although they are making good progress right now—the teams that are down in Louisiana, Mississippi, and Texas, I think, are doing a decent job. But for a catastrophic disaster it is too painful. And there needs to be a catastrophic annex that allows us to—obviously, in Louisiana, housing was the first priority, but for infrastructure, using Community Development Block Grant money, to be very frank with you, is much easier than trying to go through the FEMA public assistance route.

So we need to look at this from a catastrophic perspective, how do you get dollars into a State quickly to help it? You cannot just put up housing without infrastructure. You have got to have both, and you have got to do both at the same time. And I think that is the challenge, ma'am.

Senator LANDRIEU. Mr. Stone.

Mr. STONE. Madam Chairman, I think the question really is this, is Congress really interested in helping the States recover from a disaster and take them back to the State they were before the disaster hit? I think if everybody thought like you, I think the answer is yes.

I believe that CDBG needs a formula for an initial tranche of money for rapid initial response. And irrespective, whether it is housing or infrastructure, I think there is obviously a balance that needs to be there. The goal should be to recover housing and infrastructure, and also economic development is part of that.

But that could be something in a second tranche of money some months or maybe a year down the road when we see how far we are able to recover from the disaster with the first tranche of money. Then the second tranche, the governors could come forth with a plan to help the State completely recover from the disaster. At that time, we would have better information available such as better damage assessment, and all the insurance information available. We could put together a very good plan to make the States whole again at that moment and time.

So I think it is a two-step process. The task is just too large to try to get it all done at one time.

Senator LANDRIEU. Governor Barbour.

Governor BARBOUR. Thank you, Madam Chairman, for having this hearing. Mr. Tombar mentioned the idea about getting our people home. One year after the storm, or July 1, 2006, less than a year after the storm, the population of the bottom six counties in Mississippi was more than 90 percent of what it had been before the storm. Today, it is about 98 percent of what it was before the storm. We are hoping to hit 100 percent this year.

We thought giving people a place to stay, getting the schools open so the kids had a place to go to school, and getting their jobs back, that you could not rebuild the communities unless people could go back home with a place to stay, their kids in school, and work. And so, those were our priorities from September on. So people did a fantastic job. Every public school in Mississippi was opened in 6 weeks, except one, and that is because their portable classrooms did not arrive on time.

Most of our big industries were back open that year. Some of them were back open in 30 days. And then at one point, we had 47,000 FEMA trailers with temporary housing for people. So I would just say that we thought what we needed was to get the community back, and we thought of it totally as a community, infrastructure, schools, everything.

While the Federal Government gets criticized by people, the Federal Government has been a great partner in this. FEMA's been a great partner in this. Yes, they did some stuff wrong; so did we. But the Federal Government has been a great partner. I am glad you all are trying to figure out ways to improve it. But one thing I think everybody at this table agrees, maximum flexibility for the States to make the decision so that the State and local people's priority is put in place, rather than Washington's priority, is the best thing for everybody whatever way you determine to do it.

Senator LANDRIEU. Governor Barbour, I really appreciate that. But as you know, and you have testified to this, and we have the report, the reason that you have been fairly favorable towards the plan is because the plan that you wrote was actually funded. And that may be a model for how we go forward. I mean, I am not suggesting that may be a very good model for us to use, which is, in the governor's case, he wrote the plan, and here it is. He wrote it, and it was basically funded. And it was basically carried out according to the governor's wishes. And he has testified, and others have testified, that it has worked pretty well.

Now, again, let me say there have been critics of the plan. Some of them have testified in your legislature; some of them have testified here. But the record needs to reflect that this was not done in any other State. It was not the case in Louisiana. It was not the case in Texas. It was not the case in Alabama, and it was not the case in Florida.

So if it is going to stand as a model, then we really need to think about HUD being very flexible in the next catastrophic disaster. Let each governor write their own plan, submit the full cost to the Federal Government, have the Federal Government write, basically, a check on that date and give it to them, and then get out of their way and let them do it. That is not what happened in the other States. That is what happened in Mississippi, for the most part.

So this is what we have to figure out. Our Subcommittee is going to recommend something to the new Administration.

Then the other issue, which is not the subject of this, but I want to put this on the record, not the subject of this hearing—but I am going to be asking governors what is their responsibility to set aside a portion of their general fund dollars to meet the needs of the catastrophic disaster. Is it the opinion of the governors, collectively, that the Federal Government should pick up 100 percent of the plan or should States be required to set aside some kind of rainy-day fund, or some kind of catastrophic disaster fund, so that the States can put up a share of what the cost is to restore the area? And are we trying to restore to 100 percent or 95 percent or 90 percent? These are very important big policy decisions that have to be made by the new President, by his administrators in HUD, FEMA and Homeland Security, and then we have to, as a Subcommittee, decide.

So I am going to stay with it until we come up—because right now, it is just really—it is just a hodge podge of really conflicting rules and regulations and formulas. I do not think the governors have any confidence, or the mayors or the county commissioners, about what they are even entitled to ask for in the event of a catastrophe. I can tell you among senators, there is a great deal of confusion. And we, maybe as a group, stay confused, but in this area we are confused about what our communities are entitled to, what we should ask for.

So this has been a good hearing. I will leave it at that. I think we have had some good testimony today.

Governor Barbour, thank you for taking your personal time to come and testify. All the governors were invited. We thank you for coming forward, and we thank everyone else for representing their respective groups. But there is a lot more work that has to be done. The record will stay open for 15 days. I really encourage anybody to submit any documents they want to on this subject, and we will be having a follow-up hearing with HUD and perhaps some other members of the Administration on this.

The hearing is adjourned. Thank you.

[Whereupon, at 4:38 p.m., the Subcommittee was adjourned.]

APPENDIX

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WRITTEN STATEMENT OF DOMINIQUE DUVAL-DIOP
SENIOR ASSOCIATE, POLICYLINK

UNITED STATES SENATE HEARING OF
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
"THE ROLE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN DISASTER RECOVERY"

May 20, 2009

Good afternoon Madam Chair Senator Landrieu, Ranking Member Senator Graham, and the members of the subcommittee. My name is Dominique Duval-Diop and I am a Senior Associate of PolicyLink as well as a board member of the Equity and Inclusion Campaign. I want to begin by thanking you for your continued efforts to oversee and monitor the state-managed housing programs created in the aftermath of hurricanes along the Gulf Coast.

PolicyLink is a national research and action institute advancing economic and social equity, with offices in Oakland, New York, New Orleans and Los Angeles. Since early 2007, PolicyLink has invested significant resources in monitoring the development, implementation, progress and impact of Louisiana housing recovery programs funded with supplemental CDBG dollars. We have tracked the three major housing recovery programs—the Road Home homeowners program; the Multifamily Rental Program (funded through Low Income Housing Tax Credits and Disaster CDBG funds); and the Small Rental Repair Program. We have issued 2 major reports in 2007 and 2008 documenting the trends of our analysis, with neighborhood, parish-specific, and other analyses done to meet context-specific requests for information. In April 2008, PolicyLink and the Louisiana Recovery Authority entered into a confidentiality agreement and MOU to work cooperatively to conduct an analysis of the homeowners' program to determine trends in grant awards and gaps for homeowners working to recover their homes. PolicyLink has had a similar partnership with the Louisiana Housing Finance Authority to analyze the impact of $581 million of CDBG dollars that have been coupled with Low Income Housing Tax Credit program in a "piggyback" arrangement. This arrangement gave an additional incentive for developers to address the needs of seniors and people at risk of homelessness by increasing the number of deeply affordable units. It also encouraged the economic integration of different income groups into new housing developments.

Throughout our data analysis and work with State officials, PolicyLink has convened or supported the convening efforts of hundreds of non-profits, faith-based and community-based groups working for the recovery of their communities. These convenings, along with qualitative survey work of organizations' neighborhood recovery work, served to inform our analysis, provide ongoing information to those groups, and assisted in the crafting of recommendations for local, state and federal government to remedy gaps and challenges confronting housing recovery.

We have also continued to monitor the many CDBG actions and have filed public comments on action plans and proposed use of funds in collaboration with the Equity and Inclusion Campaign for both Katrina and Rita as well as for the 2008 hurricanes. The Equity and Inclusion Campaign is a nonpartisan policy advocacy and public messaging campaign advocating for fulfillment of the federal commitment to confront persistent poverty and inequity during the Gulf Coast recovery and rebuilding process. The Campaign, an initiative of the Louisiana Disaster Recovery Foundation, is working to effect systemic change throughout the tri-state region (Alabama, Louisiana and Mississippi). The joint work of the membership of The Equity and Inclusion Campaign across state lines have made painfully clear how disparately citizens of the same disaster are treated depending on their state of home residence, their housing tenure, and their race and economic status.

There is no objective measure for how fast such a massive housing recovery should move. But the challenges facing homeowners who confront ever-changing program rules and who are left without sufficient resources to complete repairs—and the Catch-22 of ending temporary housing help before rental replacement units are available—continues to place a significant burden on impacted residents and the communities that they are struggling to rebuild.

We are all aware of the depth of the complexity and the long term nature of Gulf Coast recovery. We are all working towards better ways of dealing with this complexity. As we continue this work, we must be aware of how the Community Development Block Grant (CDBG) program structure and the manner in which states have implemented CDBG recovery has led to numerous problems that have been detailed in many reports and presentations over the past three and a half years.

Today, I will focus on the following ongoing concerns: 1) the insufficient allocation of CDBG recovery resources towards activities that support the core mission of the program, which is to support the needs of the most vulnerable and low to moderate income—leaving these populations and the communities from which they come languishing in the recovery; 2) the need to focus on neighborhood- recovery by creating structural supports for nonprofits that are delivering key housing recovery services and resources to the hardest hit residents and neighborhoods; 3) the constraints of CDBG funding on nonprofit participation; 4) the difficulty facing citizens and nonprofits to influence the crafting of programs meant to address the unmet human and community needs of hurricane and flood-impacted communities; and 5) the future use of unspent funds.

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Insufficient Allocation of Funding For the Needs of Low Income Families

Of the $13.4 billion that Congress appropriated in disaster CDBG funds for Katrina and Rita recovery, the State of Louisiana allocated 78 percent for housing recovery programs. Approximately, $1.4 billion or 14 percent was designated to repair or replace the affordable rental housing stock, including public and assisted housing, and assist with supportive housing and homeless supports.[1] These resources will only replace only two-fifths of the 82,000 rental homes damaged or destroyed.[2] Furthermore, few if any of the CDBG resources have been targeted specifically at the needs of families who were forced to move out of state after the storms and who seek to return home.

Several sets of waivers have been granted by HUD allowing Mississippi and Louisiana to spend Community Development Block Grant (CDBG) Disaster Supplemental funds with less focus on low income people. Other waivers have shortened the amount of time that citizens have to examine and comment on action plans and amendments that create these programs. These waivers as well as the approval of action plans that allocate funding for programs that do not benefit low income families must be examined closely to determine their impact on the poor and working poor. For example, Congress granted the states increased flexibility in determining who would be eligible for programs funded with supplemental dollars. Specifically, the standard CDBG requirement that 70% of the funds benefit people with low to moderate incomes (at or below 80% of the area median), Congress required only that 50% of the funds serve this income group and gave HUD the authority to waive even that requirement.

Under the regular CDBG program, businesses that receive assistance must ensure that 51% of new or retained jobs go to people living in lower income households. HUD waived this provision for Louisiana and instead will allow the state to designate the employee as low income if his/her wage is less than 80% of the area median income. Under this waiver, a youth from an affluent household, working part-time for an assisted business would be considered low income. Additionally, Louisiana received a waiver of the public benefit requirements for economic development activities. This means that these states are not required to demonstrate that a limited amount of resources is invested per job created and/or retained with its investment in businesses.[3] Given that the hurricane- and flood- affected states constitute some of the highest poverty states in the nation, this waiver created an enormous missed opportunity for engaging lower income residents in the lucrative work of recovery.

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[1] Office of Community Development, Disaster Recovery Unit. January 2009. *Disaster CDBG Program Appropriations, Allocations and Expenditures for First Quarter of 2009*

[2] PolicyLink. 2007. *Bringing Louisiana Renters Home: An Evaluation of the 2006-2007 Gulf Opportunity Zone Rental Housing Restoration Program.*

[3] 71 Fed. Reg. 7666, 7667 (Feb. 13, 2006); 71 Fed. Reg. 34,457, 34,460 (June 14, 2006); 71 Fed. Reg. 62,372, 62,373-74 (Oct. 24, 2006); 71 Fed. Reg. 63,337, 63,339 (Oct. 30, 2006); 72 Fed. Reg. 10,020, 10,021 (Mar. 6, 2007).

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<u>Housing Recovery Programs, Nonprofits and Neighborhood recovery</u>

Housing Recovery Programs

PolicyLink conducted a review of housing recovery progress made by the State of Louisiana as it implemented major, federally-funded housing recovery programs that were developed in response to Hurricanes Katrina and Rita to restore storm-damaged housing. Those programs include the Large Rental and the Small Rental Repair programs, and the homeowners' Road Home program . The attached report can also be accessed at http://www.policylink.org/threeyearslater/.

FEMA estimated that about 330,000 homeowners suffered from minor to complete damage of their homes across the storm affected areas in Louisiana. The Road Home Homeowner Assistance program provided grants for the uninsured losses of homeowners to repair their homes or relocate. The State expects more than 150,000 homeowners will receive grants from the program—with 90 percent of those paid out as of mid-April 2009. Applicants could receive up to $150,000 in compensation for their losses, but were awarded an average of $64,000 to either rebuild their damaged residences, or to sell their homes to the state in order to purchase another home in the State, or to relocate out of state. Families that had sufficient insurance (flood, wind, and homeowners), and those that could rely on their own assets, generally moved into repair mode in the first year after the storm. Repopulation maps of damaged areas show a correlation between higher incomes and faster reoccupancy (see http://www.gnocdc.org/repopulation/). However, households that depended solely on the Road Home program generally had a slower recovery process due to insufficient funds and the slow pace of the program in its initial years.

Significant challenges remain for those who have received their grants and those who have yet to close. Nonprofit groups working with homeowners report that many recipients face insufficient rebuilding grants, contractor fraud, a high-cost environment, inability to access additional credit, and home-title succession challenges that delay or deny funding for the home repair. Our analysis found that the majority of homeowners choosing to rebuild in place did not have sufficient resources to fully recover their homes.

Furthermore, programmatic policies have had an impact on the equitable distribution of funding to the low-income and to certain neighborhoods in the City of New Orleans. One such change was made to the Road Home grant calculation formula in August 2006 that caused major gaps experienced by applicants with low pre-storm home values. The original formula allowed for meeting rebuilding/repair costs up to $150,000 and the changed formula relied on the pre-storm assessment of the home. The grant formula had a more negative effect on those whose homes sustained significant damage and were valued less than their damage estimates. Those whose damages were greater than their pre-storm home value—47.3% of all applicants rebuilding in place—experienced a gap of nearly $69,000.

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This change left 71 percent of New Orleans homeowners, 84 percent of applicants from St. Bernard parish, 70 percent of those in Cameron parish, and 59 percent of homeowners statewide who are rebuilding in place with rebuilding gaps ranging from the small to the significant. Households with significant damage and low pre-storm home values were particularly hard hit by this change. Across the City of New Orleans, the most severe community-wide impacts are revealed in New Orleans East with a gap of $65,000 and the Lower 9th Ward with an average gap of $68,000. New Orleans' Road Home applicants are more likely to have a gap than all applicants statewide. More than 60 percent of households in New Orleans East and the Lower 9th Ward have gaps over $40,000 compared to 49 percent in the city and 33 percent statewide.[4]

The changing nature of program rules, the inconsistent application of these changes and other regulations including those related to income qualification and assessment values have also led to lower grant awards and higher gaps. When applicants turn to the appeals process, they are hindered by the lack of written documentation of decisions affecting their application which creates a climate of uncertainty. Thousands of homeowners have fought for correct grant amounts. Appeals as of April 16, 2009 resulted in over one-third (35%) of the 15,399 resolved appeals cases (5,426 applicants) receiving an average additional disbursement of $26,817.[5] There are many, however, who have unsuccessfully attempted to navigate the confusing and changing application and appeals processes. Lastly, delays in the elevation grant program, which geared up last summer, made rebuilding grants and elevation grants out of sync, making it difficult for homeowners to rebuild in a safer manner.

Regarding rental recovery, the Small Rental program in Louisiana aims to reduce blight in heavily damaged neighborhoods, where rental units in traditional housing stock existed side-by-side with those occupied by homeowners. While the goals of the program are laudable, the program hit innumerable roadblocks. Unlike the upfront grants of the homeowner assistance program, federal rules steered the state toward a complex program that reimbursed landlords after repairs were finished and a tenant was in place. This required landlords to get private financing for their repairs, which became increasingly difficult as the national credit market tightened and landlords continued to carry mortgages on properties without any rental income. Only recently has this problem been addressed by a revision of program rules that will allow some resources to be allocated to applicants upfront. As of May 4th, 2,646 affordable units had tenants of the 8,520 provisionally awarded resources[6].

The program also suffered from a complex application process and a series of rule changes for eligibility. This programmatic confusion was exacerbated by applicants being unable to access their files and or receive the technical assistance they needed to complete program

[4] PolicyLink. 2008. *A Long Way Home: The State of Housing Recovery in Louisiana 2008.*The figures presented above are updated from those included in this report.

[5] Based on data obtained from The Road Home program. April 16, 2009.

[6] Small Rental Property Program Operations Status Report, May 4, 2009, The Road Home Program.

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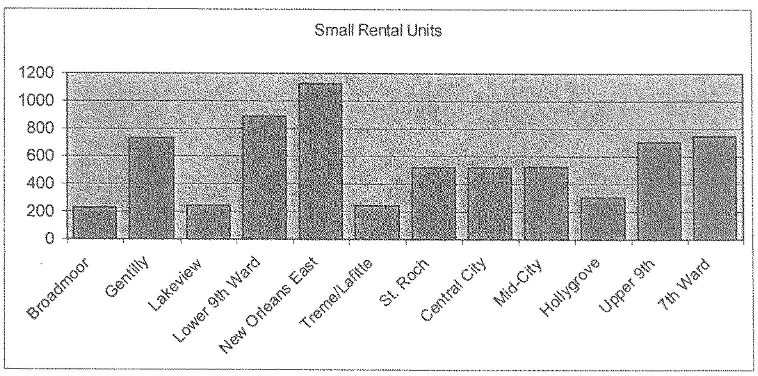
requirements. Applicants also experienced many problems similar to Road Home applicants in accessing their files and repeatedly having to verify their documentation. The state has made many improvements in this arena, and is now holding regular sessions to work with landlords, but the number of applicants who were lost in the system are unquantifiable. Between the large and small rental programs statewide, current allocations in both will only replace 2 of every 5 affordable units lost, while only 1 in 3 affordable rentals in the New Orleans area will be replaced. Parishes particularly far behind in replacement of rental units in the metro region are St. Bernard, Jefferson, and Plaquemines.

The convergence of too few resources to repair neighborhood rental housing stock, the national credit crisis, and programmatic delays together compound the neighborhood blight fostered by the gaps in financing for the homeowners program.

The following chart shows the dependence of New Orleans' neighborhood recovery on the rental program and while many neighborhoods are still blighted:



Additionally, the financing threats facing the large rental program—with investors withdrawing from projects, and a recent ruling from Treasury that deemed GO ZONE LIHTC's ineligible for Treasury exchange allowed under ARRA—mean that even the 2 of 5 replacement-level of affordable rentals originally projected is likely to be diminished. As residents transition off their temporary housing programs, those above 50 percent of AMI will have great difficulty finding affordable homes at their income levels, as these incomes were the target of much of this planned replacement housing.

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The Role of Nonprofits and Community-Based Organizations in Neighborhood Recovery

A mosaic of community organizations—from housing counseling, housing development, neighborhood associations, and volunteer-staffed rehab groups—have arisen or expanded in disaster affected areas to help residents navigate the tortuous path to recovery. Together, these organizations gutted several thousand flooded homes, and rehabbed or rebuilt over a thousand homes. Services provided by these groups include: case management, volunteer coordination, referral services, construction management, financial assistance, legal assistance, and housing rehab.

In June of 2008, PolicyLink undertook an assessment of the housing recovery challenges faced by New Orleans residents. Road Home housing application data was examined to understand the trends for residents relying on federal recovery funds. Then community groups that are helping families rebuild their lives were interviewed. Through interviews and working meetings these groups laid out the primary reasons for homeowners being unable to rebuild their homes. The challenges most commonly faced by homeowners are listed below.

- **Contractor Fraud and Mismanagement.** The number one obstacle to recovery concerns construction contractors, specifically contractor fraud. With large awards and a cumbersome prosecution process, fraud has seen a steady increase. Many homeowners have become victims of outright theft of their recovery dollars and are now facing rebuilding with little to no money. Preliminary findings of a LouisianaRebuilds.info and LSU survey estimate that over 9,000 residents have been victim to contractor fraud over the last three years. Survey results indicate higher incidences of fraud among lower income and lower literacy residents. Many have been victimized by unlicensed and uninsured contractors, making it more difficult to pursue damages and restitution. Additionally, a significant number of homeowners have been unable to manage the construction process which can allow contractors to take advantage of their lack of knowledge or poor decision making by homeowners that can whittle away the money needed to rebuild.

- **Not enough money to rebuild.** Even if homeowners are able to manage their construction process, many do not have enough money for a complete rebuild. Lack of funding was attributed to: Road Home grants being too small due to reasons including grant formula calculation, under assessed home values, and increasing construction and insurance costs; poor financial decision-making and/or forced payoffs of their mortgages; and the increased costs of living affecting all Americans (increased energy and food costs) as well as the particulars of additional costs saddled to families trying to rebuild a home while living in another. For homeowners in areas that are required to elevate, the fact that the program restarted early in the year means that many homeowners have begun the rebuilding process without resources necessary to elevate. These homeowners may find it prohibitively expensive to back track to begin elevation on a home that has already been rebuilt/repaired or for which rebuilding/ repair has commenced.

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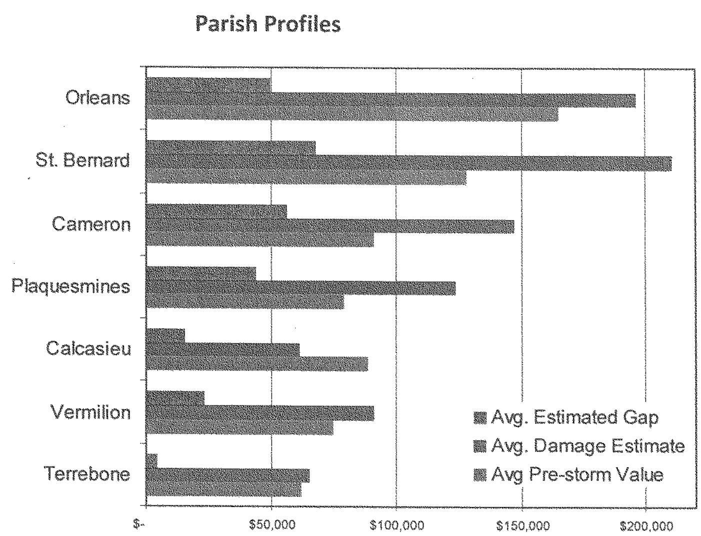

- **Credit Issues and Foreclosure.** Due to the tightening credit markets and storm related credit issues, many homeowners are finding it extremely difficult to access credit to fill any gaps they may be experiencing. Although rates of foreclosure in Louisiana are far lower than in other parts of the country, rebuilding groups are starting to see evidence of this trend shifting as families start to face foreclosure or simply are unable to rebuild and after having obtained an additional mortgage.

- **Increased Financial Vulnerability.** A slow rebuilding process that has forced homeowners to drain their financial resources (including savings and retirement accounts) or to rely on uncertain loan arrangements (such as pay day loans and personal network loans) has increased financial vulnerability. The threat of recoupments caused by Road Home grant calculation errors leading to overpayments, or potentially caused by homeowners' inability to meet covenant requirements further enhances the precarious financial position many homeowners find themselves in. Federal income tax penalties that were unclear upfront to applicants and rising cost of insurance also limits household resources and raises risks for breaking covenants.

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- **Delay and Difficult Access to Information.** One of the most constant criticisms of the Road Home Program has been overall recovery program delay and the difficulty in accessing accurate or consistent information. Constant changes in policies affecting applicant has made monitoring the progress of a Road Home application nearly a full time job, which can overwhelm and confuse many applicants. This confusion has caused many to make misinformed decisions or simply give up out of sheer frustration with a program that may likely not give them the resources needed to rebuild.

- **Succession and Title Issues.** Clear title has become a major stumbling block for many property owners in the city with family owned properties passed down from one generation to the next without paperwork. While these properties are owned outright, without clear title, families cannot advance through the Road Home process. Similarly, there have been problems for individuals that own multiple properties but allow other family members to live in their properties for free. Only the person on the title of the property can apply for the Road Home program and can only apply for one property – their primary residence. The other family members are ineligible for the Road Home so properties generally have no money to repair and families have no place to live.

In response to political pressure at various points throughout the implementation of the program, state policymakers have consistently responded by building the capacity of the large state contractor. The State has only recently allocated modest, additional resources directly to nonprofits to assist with the needs that have been identified above as well as to assist in transitioning families dependent on temporary housing assistance programs into more permanent housing. The lack of substantial and sustained investment in the community infrastructure from the outset of hurricane recovery has stifled rather than enhanced the organic recovery process and community ingenuity. We have missed the opportunity to contribute to the creations of sustainable and resilient communities; communities that are able to initiate and invest in their own recovery and redevelopment.

Furthermore, housing recovery is being undertaken in silos, where different types of housing –large multifamily, small rental, owner-occupied homes—are subject to different program rules and progress is occurring within the context of these program silos. These silos have obscured the fact that the progress of housing recovery at the community level is very uneven and reveal racial and social inequities.

To illustrate this point, housing recovery in the rich, predominantly white, New Orleans neighborhood of Lakeview is progressing very well in comparison to the poor, predominantly African America New Orleans neighborhood of the Lower 9th Ward. The map presented below reveals the confluence of factors that have served to completely stymie recovery in this small section of the Lower 9th Ward. It shows Louisiana Land Trust properties which have yet to be redeveloped by the New Orleans Redevelopment Authority (NORA). It shows the extent of gaps facing Road Home applicants in this area who want to rebuild. These data highlight the

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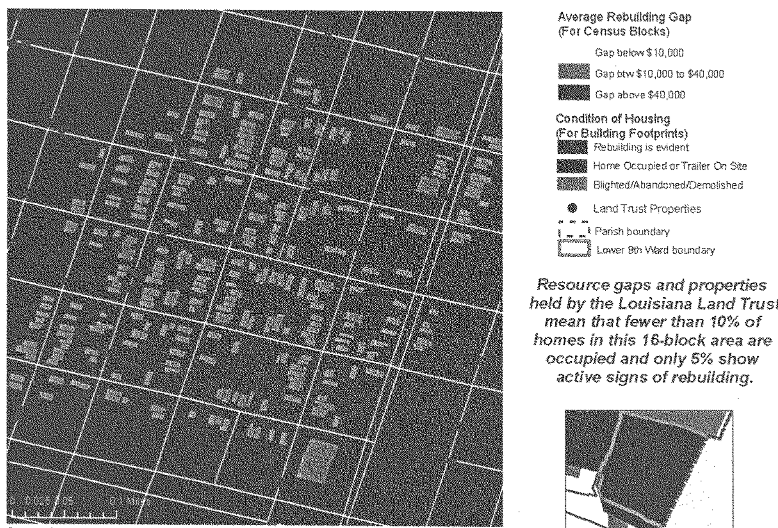
connection at a neighborhood level between city redevelopment efforts and the state level Road Home program. If we were able to layer small and large rental units coming back online, we would probably see an even greater concentration of blight.

The clear connection between the high gaps facing residences in this area and the number of properties that still remained blighted or abandoned is a powerful way to assess the actual progress on the ground and the impact of slow programs on neighborhood rebuilding.

Building Conditions and Average Rebuilding Gaps in the Lower 9th Ward



Sources: Building condition data collected by A. Curtis, Dept of Geography, USC, June 2008.
Average Rebuilding Gap calculated from Road Home data obtained from the Louisiana Recovery Authority, Oct 2008.
Louisiana Land Trust properties represent homes sold to the State through the Road Home. Data from LRA, Oct. 2008.

Map Created by PolicyLink 2009

Citizen Participation

Community participation can play a critical role in shaping policy and developing programs that address community needs and reduce historic inequities. As residents seek to transform their neighborhoods into 'communities of opportunity'—places with access to good schools, healthy food, places for recreation, healthcare and transportation access-- the role of the state in validating and supporting community participation becomes paramount.

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While the State in its development of the Gustav and Ike CDBG Action plans has required extensive citizen input processes for the local subgrantee recipients, it has not employed the same principles in its own state level action plans. Since the first set of approved waivers, State officials have used an expedited citizen comment period and have not presented action plans to the public in the form of public hearings. Because this process of engaging community input into program and policy development takes plan after a significant amount of planning has already occurred, those who do comment rarely see significant modifications to action plans based on their input. This can be resolved by the State creating a citizen advisory council that is representative of disaster-affected communities that has the authority to shape the development of policies and programs and conduct public input process that is more authentic. Thus can the State benefit and acknowledge the wisdom and hard-won expertise of community based groups.

The Future Use of Unspent CDBG Funds

As of February 6, 2009, the Louisiana Recovery Authority projections of unexpended Road Home dollars range from a $30M deficit to just over $200M. Another $650 million still remains unspent in the Individual Mitigation Measures program. 90 percent of unspent Road Home funds should be allocated for gap-grants to homeowners to close difference between damage estimates and compensation awards up to $150,000. These grants would cover those with gaps due to administrative errors and problematic appeals AND homeowners with gaps due to damage estimates that were much higher than pre-storm home values.

An additional 10 percent of any unspent Road Home funds to nonprofits in a competitive RFP process to help homeowners and small landlords that are most vulnerable (low income, low literacy, disabled, elderly) repair their homes and rental properties. Non-profits should have a demonstrated ability of leveraging resources such as labor, materials and other funding sources to complete units, and should be given extra points for focusing their efforts in areas with significant amounts of concentrated blight or in areas subject to spot blight.

Furthermore, all resources that are currently allocated to the Small Rental Repair Program should remain dedicated for that purpose. According to the LRA, there are commitments for $408.3 million of the original $866.5 million allocated for the Small Rental Program. Additionally, $115 million will be spent on first time homeownership programs. This leaves $343.2 million in the program reserves, and should remain targeted at increasing affordable rental housing stock and reducing blight in neighborhoods.

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Key Recommendations

Address concentrated blight in neighborhoods that have not fully recovered from the disasters of 2005 and address vulnerable populations that cannot rebuild without case or construction management and additional cash assistance. Unspent funds (detailed below) should be structured in a manner that allows: 1) nonprofits to couple case management services with direct cash assistance to help low-income, elderly or disabled homeowners close their rebuilding gaps; and 2) community based nonprofit groups to couple construction management with resources to acquire construction materials, marshal volunteers, and engage skilled contractors to assist in the rebuilding of neighborhoods that are largely unrecovered. The funds should be granted in manner that allows nonprofits to draw down on funds—*not* require reimbursement for funds drawn down from organization's own resources.

These two uses—funding nonprofits to address blighted neighborhoods and vulnerable residents—addresses the insufficient allocation of large amounts of CDBG recovery resources towards activities that support the core mission of the program—the support of the needs of the most vulnerable and low- to moderate-income; 2) the need to focus on neighborhood- recovery by creating structural supports for nonprofits that are delivering key housing recovery services and resources to the hardest hit residents and neighborhoods. While the State of Louisiana has moved to allocate some resources to this purpose ($5M), the amount is minuscule compared to the need. 58,000 applicants to the Road Home program had damage estimates greater than their assessed home values. An $800M pool would help 30,000-40,000 homeowners or rental property owners recover both its residents and its neighborhood. PolicyLink and our partners have supported this approach since 2006, as it became clear that these were the major recovery actors for these populations.

Resources currently allocated to meet the needs of low-income homeowners that are struggling to rebuild and the need for affordable rental housing should not be diverted from those purposes. This includes the $343 million that is uncommitted in the Small Rental Repair program and any remaining unexpended Road Home Homeowners Assistance program funding. Furthermore, resources that have not been expended in other programs that are not targeted to meet these needs should be considered for this purpose. This includes the $650 million currently allocated for the Individual Mitigation Measures Program.

Testimony to the Ad Hoc Subcommittee on Disaster Recovery on May 20, 2009
by Melanie Ehrlich, Ph.D., Member of the Louisiana Recovery Authority Housing Task Force

Sen. Landrieu, members of the Subcommittee, thank you for this chance to participate in the hearing.
I am Melanie Ehrlich, the founder of the grass roots group Citizens' Road Home Action Team.

Thank goodness for Congressional funding for the Road Home Program for South Louisiana for the tens of thousands of fortunate applicants.

However, for tens of thousands of unlucky applicants, this was a Kafka-esque ordeal for 2 or almost 3 years.

Thousands of applicants have not received the promised help because this program often did not follow its own rules, withheld information about its rules; made the rules extraordinarily and unnecessarily complicated, and used ever-changing rules to downsize grants or to leave hurricane victims still waiting for grants.

From interactions with more than 1400 applicants and many meetings and emails with Road Home officials, I saw that the underlying policies and implementation of the program put the needs of ICF International and the State above the needs of hurricane victims.

Louisiana's recovery and its people have suffered because of:

- gross unfairness, especially, but not exclusively, for low-to-moderate income applicants, whom CDBG is supposed to help;
- a lack of transparency concerning the Program's rules and regulations;
- double standards and inconsistent treatment;
- ignoring phone calls, faxes, and certified letters from desperate applicants for many months or more than a year;
- systematic downsizing of grants by redundant, poor-quality assessments of damage or house valuation that wasted taxpayer money which was needed by applicants to rebuild their homes;
- an appeals system that often rubber-stamped the mistakes of the Contractor apparently with no written standards;
- an obligatory pre-appeals process that was fraudulent and kept applicants out of appeals, often permanently;
- and refusal to give applicants important notices in writing and data from their file to understand their grant and any errors.

Here are just two quotes from editors of New Orleans' Times-Picayune in Oct. & Dec. 2008

> **The Road Home Program has messed over so many people in so many ways over such a long period of time that, at this point, it takes a particularly egregious error to attract attention ..."**
>
> **"ICF International's incompetence was well-established." "There is public anger over its ..failures."**

The Program is not yet over although the State is trying to spend the much of the remaining, unobligated money (>$1 billion) on $7,500 grants for things like raising air-conditioners instead of fixing shortchanging mistakes. LRA promised to reopen appeals and recently broke that promise without notice or explanation.

HUD should insist on LRA using this money for reform of appeals for all applicants who tried unsuccessfully to get a fair appeal or are otherwise still unfairly left in limbo.

HUD should insist that applicants who made no intentional mistake not be asked to repay money resulting from program error that was not obvious to the applicant.

Our 39-page complaint to the HUD Office of the Inspector General should be put back on the fast track instead of delayed for 6 months when almost all the money will probably be spent.

Our allegations of serious mismanagement, waste and abuse, and evidence of contractor fraud should be evaluated fairly, notwithstanding HUD's involvement in oversight of the Program and the addition of a former Road Home contractor to HUD's Disaster Recovery staff.

I hope that you will read my summary of pleas from applicants asking for justice and fairness.
Thank you for your consideration and we thank the American people for their generosity!

Summaries of Pleas from Applicants and References for the Testimony by Melanie Ehrlich to the Ad Hoc Senate Subcommittee on Disaster Recovery on May 20, 2009

Melanie Ehrlich, Founder, Citizens' Road Home Action Team (CHAT), http://chatushome.com, mehrlich8@yahoo.com

I. Types of Referenced Information

A. CHAT's Third Survey, which has 352 responses from 326 applicants, all of whom provided names, addresses and contact information. Duplicates were removed, and it has been made anonymous is provided as a PDF. The 26 duplicate responses have been deleted from this PDF. There are a total of 1529 responses to our three surveys to date.

Upon request of Congressmen or HUD, we can make available the non-anonymous version of these data with contact information for 212 respondents who indicated that we could send these data with identifying information to Road Home officials.

Current Folder: -- View All Surveys -- Manage Folders Title Search: Search

Survey Title [sort]	Created [sort]	Modified [sort]	Design	Collect	Analyze [sort]	Clear	Delete
CHAT Survey: Road Home Problems with Grant Calculations and Elevation Grants	Mon, 7/28/08 3:10 PM	3 days ago			352		
Road Home Program Statement of Principles	Fri, 6/8/07 7:54 AM	104 days ago			679		
Survey -- Bill of Road Home Rights	Fri, 3/2/07 2:39 PM	1 year ago			498		

B. Stalled HUD OIG complaint about the Road Home Program that was accepted for investigation is provided as a PDF.

A complaint about the Road Home Program was accepted for investigation by the Office of the HUD Inspector General. The complaint was co-signed by leaders of the all-volunteer Citizens' Road Home Action Team (CHAT), Loyola Law Clinic in New Orleans, and Terrebonne Readiness and Assistance Coalition in Houma.

The complaint is entitled "Waste, Mismanagement & Abuse Complaint- LA Road Home Program" was filed on Feb. 2, 2009 and accepted for investigation on February 19, 2009.

A HUD inspector was supposed to start the investigation on Apr. 2 by meeting with me. Suddenly, the meeting was cancelled, and I was told that the investigation would be postponed for 6 months.

C. An anonymous version of some of the 60 emails sent by applicants since May 15 urging that our HUD OIG complaint be promptly and fairly investigated. The complete set with contact and identification information is being given to Sen. Landrieu at the hearing.

D. Two briefs filed in East Baton Rouge civil court about unfilled or partially public record requests by Melanie Ehrlich for Road Home Program public documents from LRA. These are provided as a PDF.

E. The need for using remaining funds from the Road Home Program to help applicants who most need and deserve the funding is illustrated by my immediate neighborhood in Gentilly, the section of New Orleans with the most Road Home applicants.
Please see that file of photos provided as a PDF entitled "Stalled Repair..." All these homes were blighted only as a result of Hurricane Katrina. Our area had 5 feet of salt water/sewerage water/flood water for 3 weeks and was off limits for about 6 weeks but many homeowners, like I and my husband, were unable to return for months.

F. A scholarly treatise on the Road Home Program highlighting failures and inequitable treatment, especially for low-income applicants, "Stranded and Squandered: Lost on the Road Home," by Davida Finger, Esq., cosigner of the HUD OIG complaint mentioned above.
http://www.law.seattleu.edu/Documents/sjsj/2008fall/7_1_9_Finger_01.pdf

G. Four articles from the Times-Picayune, New Orleans' major newspaper

"Lose the attitude, not the paperwork," Commentary by a Times-Picayune editor, Oct. 28, 2008, http://www.nola.com/timespic/stories/index.ssf?/base/News/1225171260189970.xml&coll=1

"Missing the point on ICF," editorial, Dec. 14, 2008, http://blog.nola.com/editorials/2008/12/missing_the_point_on_icf.html

"LRA is sued for its records: Watchdog seeking Road Home data," Article in the Times-Picayune, May 18, 2009, **http://www.nola.com/news/t-p/metro/index.ssf?/base/news-34/1242624008109530.xml&coll=1**

http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-7/116486955266140.xml&coll=1

H. A small sample of positive and constructive interactions between leaders of the Citizens' Road Home Action Team and program or federal officials. A PDF is provided.

II. References for my testimony

1. Louisiana's recovery and its people have suffered because of gross unfairness, especially, but not exclusively, for low-to-moderate income applicants, whom CDBG is supposed to help.

a. Question 24 from CHAT's third online survey (provided as a PDF)

Are you in financial trouble or living under poor conditions because you are still waiting for your appeal to be decided or for a chance to appeal with a full copy of your file?

197 out of 326 respondents (60%) replied "yes."

Please see pages 78-85 of the PDF with results of this survey for many detailed answers.

Here is a sample of four of the comments from applicants in answer to this question with the date of the response.

04/11/2009 LOST HOME TO FORECLOSURE. FEMA PICKED UP THE TRAILER.

04/14/2009 haven't finished my home repairs and depleted my savings we are both retired and live on a fixed income we were counting on that money to help us finish our home and replace our savings

04/26/2009 I am living in post-katrina, flooded, moldy, untouched-since-Katrina condition. My respiratory condition and allergies are being exacerbated by living in these conditions and I am experiencing several other medical issues as well waiting for the Road Home to come through.

05/07/2009 Living in an empty house.

05/08/2009 Living(almost 4 years)without heating or air conditioning. Siding and insulation still gone. Mold getting worse everyday! Slab shifting causing floors to buckle and doors and windows don't close properly.

b. Question 21 from CHAT's third online survey

Was the amount of your award decreased just before or at closing?
(CHAT note, decreasing the grant just before or at closing is against Road Home rules but is done routinely anyway, as we learnt from a public records request in 2007 for change policy/CCB documents.)

Here are a few detailed answers.

12/30/2008 The amount always changes without notice. The way they solve this is to arbitrarily put the application in an inactive file without notice.

01/03/2009 I was to get 111,000 at closing I got 101,000. They told me to appeal and would get the rest.

01/06/2009 I appealed the $50,000 grant. I was awarded to me in the yellow letter dated April 2007; but at closing they said I had too much household income to be awarded the $50,000 grant. I am on disability and my mother is on social security income. I think it was unfair to penalize me for my mother's income. My mother's income is solely for her medical expenses and upkeep.

01/25/2009 I was told in writing $76,000, then was told to fill out another application with no explanation. Was told by phone 11,415.00.

02/02/2009 The amount was decreased more than once before the closing I was told of three different award amounts, before I received the final amount at the closing.

02/10/2009 As afore mentioned, I was told 23 hours before closing that the grant amount would change with no explanation given to me.

Please see pages 70 - 73 of the third CHAT survey for more answers.

c. Question 20 from CHAT's third online survey.

Were you told that you were eligible for an additional compensation grant but later told that you weren't?

{Additional compensation grants for low-income applicants to help bridge the gap of low land values making their grants insufficient to rebuild or repair their homes. The rules for qualifying for these additional funds were made more disadvantageous several times during the course of the Road Home Program.}

96 respondents answered "yes" out of a total of 326 respondents (29%).

d. A recent representative email from an applicant

xxx <xxx@yahoo.com>
Add sender to Contacts
To: mehrlich8@yahoo.com
Thank you for giving me a glimmer of hope. Road Home/LRA wont return my phone calls, letters, faxes or e-mails. I've lost my home, life savings and my health since Katrina. They even took my FEMA trailer (along with my personal belongings and crucial documents) while I was in the hospital in a coma in 2007. I had an extension from both FEMA & St. Tammany Parish. However, FEMA cut me off without any further assistance. I had no health insurance & I became homeless after being a police officer since 1980. I appreciate the things you have done to help those of us that have "fallen through cracks".
Respectfully, xxx

e. **"Stranded and Squandered: Lost on the Road Home," by Davida Finger, Esq. This document is provided as a PDF and is available online in the Seattle Journal for Social Justice, Vol. 7, p. 58 – 100, Fall, 2008. http://www.law.seattleu.edu/Documents/sjsj/2008fall/7_1_9_Finger_01.pdf**

2. Louisiana's recovery and its people have suffered because of a lack of transparency concerning the Program's rules and regulations.

a. Question 18 from CHAT's third survey: **Did you want to appeal but did not because you were confused about the rules? 90 out of 326 respondents (28%) said "yes."**

Here are some of their comments about this response.

08/09/2008 I understood the rules but it was extremely difficult. Many times I wanted to give up. I have never spoken to so many incompetent people as I have dealt with in the road home program. I had 12 certified mail receipts but they denied my appeal originally because they did not get feedback from me.

08/07/2008 I'm in the process of filing an appeal. Several of my neighbors have tried filing an appeal, but were unsuccessful, or have given up on the Road Home program altogether. I am more interested in having another damage estimate done on my house, since the first one had many omissions.

08/07/2008 Do not know the first thing about making an appeal or how to go about it.

08/06/2008 I did appeal but never heard from them .

08/06/2008 I actually thought I appealed but was told I didnt.

08/06/2008 road home told me I couldn't appeal yet.

08/06/2008 I was not aware that there was an appeal process

10/02/2008 Yes, I was told before I went o closing that if I did not go to closing and accept what was offered I'd get nothing, by Cameron G., who said he was hired to get people to go to closing. And at closing I was told there wasn't anything to do but to accept it. The web site is not user friendly for novice computer users, so I was confused. # 21 I wanted to appeal but was told I couldn't. # 23 I do not know. I never ever got anything in writing

09/23/2008 I started my appeal after my PAL refused to return my calls and return my documents I requested months ago. She disappeared after I went to my elevation closing. Also the application for the elevation grant had some confusing info if I got the money , I couldn't appeal after that.

03/26/2009 Although I am a lawyer and a CPA, the rules were incomprehensible and the application of them was arbitrary, capricious, inconsistent and inequitable. At some point, I think I chose my mental health over continued, futile pursuit.

04/14/2009 i did appeal but did not understand the rules

Please see pages 62 - 68 of the third survey for more comments about this from applicants.

b. HUD OIG complaint

Page 9 about the lack of access of low-income applicants to the rules:

"Frequent changes of rules of the program contrary to goals of the CDBG program and failing to provide low and moderate income applicants with explanations of these complicated rules despite about 40% of the applicants (disproportionately low-income applicants) not having internet access to the Program's website;"

Page 15: "arbitrary and inadequately publicized or unpublicized rule changes [59] that are designed to unfavorably impact grant amounts, and noncompliance with CDBG rules and posted rules;"

c. To get information to help applicants, including the latest versions of changed rules and some rule changes that are not made public by LRA, I have had to get a lawyer and file a writ of mandamus. I am still waiting for most of these documents requested in July, Oct., or Dec., 2008. Please see the provided file about public record requests.

3. Louisiana's recovery and its people have suffered because of double standards, arbitrary, and inconsistent treatment.

a. Here are some examples from the answers to a question on CHAT's third survey about Road Home's estimation of damage used in grant calculation. If a house is considered <51% damaged, applicants the grant calculations give applicants very much less grant money. Please see the PDF with responses to CHAT's third survey, pages 25 - 34, for more answers to this question.

08/14/2008 I fought over the est. of damage for 1.5 years and they finally adjusted it but then lowered my pre-storm value.

08/18/2008 my house is the only house in my neighborhood that is considered <50% damaged. All others are >51%. Not logical at all especially being located 4 blocks from the 17th St. canal breach.

08/20/2008 Neighbors had the same amount of damage but didn't have to have a CAD report. Road Home insisted that was the way we had to go. Not fair.

08/21/2008 We were 16 feet above sea level. Our damage came from water from river, MRGO, and swamp areas in St. Bernard and Plaquemines Parish, thus not in the usual flood area. A large tree fell on the roof, which had just been replaced, so no insurance covered the flooding. We had just completed three years of internal home improvement. Age and physical conditions prevented our following up, as needed. We gutted the home, lost everything, and moved to our daughter's home in Knoxville. We are approaching 80, with three years of psychological counseling completed. What do we do now? We have received no written explanations from LRH.

08/22/2008 was not given a CAD ***(CHAT comment: this is against Road Home rules, as I found out from a 2007 public records request)***

08/22/2008 Most of my neighbors were classified as a Type 1 and did not have to do the Estimated Cost of Damage

08/22/2008 My home is at least twice if not three times the size and square footage of other homes adjacent to mine.

08/22/2008 My neighbor who lives directly across the street and several of my neighbor cost of damage was much higher than my with same amount of damage.

b. Please see pages 5 - 8, 18 - 21, 27 - 28, and 31 - 32 of the HUD OIG complaint, which includes statements from a very knowledgeable former Road Home staff person, who is willing to be interviewed.

4. Louisiana's recovery and its people have suffered because of ignoring phone calls, faxes, and certified letters from desperate applicants for many months or more than a year.

a. Please see results of CHAT's third online Survey,

Here are some of the comments in the survey about ignored phone calls, faxes, and letters from applicants

Page 16: *08/07/2008* I sold my $90,000 house for $40,000. I sent a copy of the Settlement Statement to The Road Home three times showing these figures. I discovered today that my application is "ineligible" because according to THEIR records I received $89,000 when I sold the house. I have no idea where they got this ridiculous inflated figure. They will not return phone calls I make to discuss the inaccuracy.

Page 45: *08/06/2008* April of 2007 at our closing we advised that we would like to appeal. We had to sign a paper saying we were appealing at the closing. We have attempted to contact them via e-mail, telephone call, facsimile and regular mail. All to no avail.

Page 46: *08/06/2008* We started an appeal by writing a certified letter earlier this year possibly in February or March of '08. We have heard nothing from that. I met a Lara Robertson at a LRA meeting in May and e:mailed her and mailed her pictures of our home. She is supposed to have forwarded this to some one but I have not heard back from anyone.

Page 47: *08/08/2008* Unable to get a response by snail mail, e-mail or phone.

Page 51: *08/22/2008* Hello, I submitted my appeal March 13, 2008. ...Numerous attempts to contact RH by phone resulted in no return phone calls/e-mails... 11/5/2007: Again wrote to RH after numerous attempts to call them were unsuccessful. Their response was as follows: "Thank you for your inquiry. Due to the volume of e-mails received, it has taken us somewhat longer to respond. Your concern is important to us and we will do our best to assist you. If you received a letter stating that you are ineligible and you feel that the reason given is not accurate, you must go through the process of appeal by following the instructions given to you in the letter. Scheduling an appointment is not an option." 10/20/2007

c. A recent representative email

From xxx@cox.net <rgallo2@cox.net>
Subject: "Road Home Appeal"
To: info@louisianarecoveryauthority.org

Cc: mehrlich8@yahoo.com
Date: Tuesday, March 10, 2009, 3:55 PM

- My address is xxx, Chalmette, Louisiana 70043.

  Our closing was held April 2, 2007, at First American Title. At that time we were told if we took the grant offered that we could still appeal it and we signed a paper in the pack of papers to that effect. We are appealing the "Estimated Pre-Storm Value" of our home. It was appraised at the same amount that we bought it for in 1999. Also, we had insurance money for outside structures and fences deducted from our grant. I understand now, thanks to CHAT, that this should not have been deducted from our grant.

  I have called and called and e-mailed and faxed requests for assistance with this since April of 2007. No one has ever returned our calls.

  The only thing we've received from the Road Home was another request for our "Homeowners Insurance Claim line item Estimate or Worksheet" which Road Home said they did not have. Of course, this was turned in to Road Home in the very beginning, but I went ahead and sent it again on February 11, 2009, and again called Ms. Tonya Roberts (who sent us the request for information) to see if she could advise me as to what was going on with our appeal. I still have not heard from Ms. Roberts or any one else from Road Home about this.

  Additionally, on February 9, 2009, a certified letter, (directed to the attention of Brad D. Bradford) requesting a copy of our file was received in your office in Baton Rouge. We have not heard anything about this request either.

  I could probably go on and on about all of our attempts to get information on our appeal, but I will leave it at this for now.

d. HUD OIG complaint

Page 35

Excerpts from a **Dec. 7, 2007 Report by KPMG, LLC are given below**

http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf

http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf

P. 13 "2. Providing applicants with proactive application status information in order to facilitate more accurate grant calculations in a timelier manner.

o ICF should focus efforts toward proactively analyzing current applications, identifying a more specific common group of issues, and then communicating a meaningful application status to applicants, prioritizing by date of original application to address the earliest applicants first. The communication should be by phone and letter. The letter should include as much known information as possible, including the current status of the application, pending issues, missing documents or information, and an outline of the remaining steps to closing. Consideration should also be given to developing a monthly newsletter to the current application base to provide updates to the grant customer consistently, accurately, and timely for Program changes and other general updates."

5. Louisiana's recovery and its people have suffered because of systematic downsizing of grants by redundant poor assessments of damage or house valuation that wasted taxpayer money which was and is still needed by applicants to rebuild their homes.

a. References for the redundancy of the assessments

i. HUD OIG complaint

Repetitive and otherwise unnecessary tasks have been done by the contractor that increased its costs beyond necessary and reasonable requirements and incurred to the disadvantage of applicants, a waste of taxpayers' money. Please see page 11 - top of page 12 of the supplied copy of the HUD OIG complaint for the rest of this section.

i1. A representative email from an applicant made anonymous

Monday, May 4, 2009 3:46 PM
From:
"Geneva " < @bellsouth.net>
Add sender to Contacts
To:
"Melanie Ehrlich" <mehrlich8@yahoo.com>

My name is and I have spoken to you by cell phone. You were referred to me through my brother, xxx, in Chicago, IL. Just to up date you on our situation, We are selling our parent's property in New Orleans, LA to the state. I have been working with the LRH authority almost 2 Years. I have prepared and submitted all documents to the LRH and as of April 2, 2009, I called the title company to find out if the file had been received by them. It had been received but they had to send it back to LRH because, I'm told by representatives of the LRH that the file has to be resubmitted because a new company has taken over the operations of the LRH and needs to be transmitted under the new company's name. Today is May 4, 2009, and they still have not passed out our files to the new advisors and don't know when it will take place. The files will not be resumitted to the title company until they have been assigned to a new Road Home advisor. The system is broken and the poor homeowners a stuck in the middle. We have no representation to help us, no guidelines and no one is advocating for the homeowners. THIS IS TRULY A SAD TIME IN AMERICA when people can't get their needs met without dealing with incompentence at all levels of this program. PLEASE HELP US IF YOU CAN!

iii. An email addressing the same problem from the standpoint of a lawyer who provides free help for low-income applicants through Loyola University's Katrina Clinic

Friday, May 1, 2009 6:19 AM
From:
This sender is DomainKeys verified
"Davida Finger" <davida.finger@gmail.com>
View contact details
To:
"David Hammer" <dhammer@timespicayune.com>
Cc:
"Melanie Ehrlich" <mehrlich8@yahoo.com>

David - many of our R.H. files haven't moved forward in over 3 weeks. Yesterday I got a note saying they need to be "activated" for the new contractor. The delay is maddening and debilitating for applicants - in the next story you do, I hope you can include this problem. I realize that it is "more of the same", however, it is so important to explain this as applicants are having their homes demolished & trailers removed. Thank you, DF

--

Davida Finger, Staff Attorney
Loyola University N.O. College of Law

b. Reference for the quality of the grant processing by ICF International

i. Please see results of CHAT's third online Survey about mistakes in application processing, pages 35-42.

ii. A representative Email to CHAT

Sunday, October 12, 2008 6:27 PM
They appraised my home for $13,000 less than I paid for it only 6 weeks before the storm. Their appraisal was obviously worthless since it compared my home with 3 others on the same street that had NOT sold in the previous 12 months, and which were much smaller houses on much smaller lots. Then they said that MY house had "no record of prior sales in the previous 3 years" which was a flagrant error. I consulted an independent appraiser and she said she had worked for them briefly and it quickly became clear to her that they just made up figures after a drive-by and didn't bother getting the facts.

iii. Please see the HUD OIG complaint, p. 30 - top of 32, page 35

6. Louisiana's recovery and its people have suffered because of an appeals system that often rubber-stamped the mistakes of the Contractor and apparently no written standards.

a **CHAT third survey**: Pages 43 - 61. Here are just a few sample comments.

08/05/2008 I WAS TOLD BY MY LIAISON THAT MY APPEAL WAS DENIED AND THAT I COULD APPEAL WITHIN 30 DAYS AND THAT WAS JUNE 24 2008 I HAVE NOT RECEIVED ANY PAPERWORK FROM ROADHOME ABOUT MY APPEAL THAT WAS DENIED!!!!

08/07/2008 Approximate March-July, 2008. I never got anything but they had rejected my appeal, even though I requested many time(I sent them Picture, letters, Fax, and even the contractor talked to them and wanted to know why I was rejected because all the rest of his applicant was approved, stating he done know why even after he talked to them.

08/13/2008 We initiated the appeal process on July 31, 2007, I believe. With the treatment we got from Road Home thus far, without any helpful results, we are not sure if it is worth completing the appeal process, even though our house was severely damaged and we have had to go into debt to pay for repairs beyond what insurance covered.

08/13/2008 I filed an appeal in June 2007 (or so). After several iterations, I was granted an appeal award in December 2007. Since this letter I have been unable to get anyone to tell me how I can get the appeal amount. I continue to get a run around. Nobody seems to know. I just keep getting told that I will be contacted for another closing??

b. **Third Road Home Survey,** page 43-61

c. **Denial of right to appeal any State Appeals decisions on Road Home grants in court contrary to Louisiana law**

The State denies aggrieved victims any right of judicial review contrary to state law (The Louisiana Administrative Procedures Act allows any aggrieved person the right of review of a final agency decision but the RHP and State Attorney General are fighting applicants who seek such reviews in court.

d. Not setting aside sufficient available funds for appeals

Please see these public comments which were also submitted to HUD about LRA Action Plan Amendments #27 and 28:
http://www.chatushome.com/blog/?p=8#comments

7. Louisiana's recovery and its people have suffered because of an obligatory pre-appeals process that was fraudulent and kept applicants out of appeals, often permanently.

CHAT third survey, Page 46: *08/07/2008* So long ago I can not truly remember, BUT it was definitely at least two years ago. I WAS IN RESOLUTION FOR 2 YEARS AND STATE APPEALS FOR ALMOST ONE YEAR.

Page 46 *08/07/2008* I called on Monday, February 2, 2009 to ask why my online status indicated no status at all instead of in progress. I was given the name of the person who was assigned to my case. I left two voice mail messages. That person has never returned my calls. I have not received anything in writing yet.

Page 46 *08/07/2008* I began complaining in November 2006 and was in limbo until July 2007 when I got Representative Lorusso to intervene on my behalf.

Page 50 *08/18/2008* I submitted written appeal letters on May 2, 2007, November 24, 2007 and June 21, 2008. These appeals are still outstanding. 5 "Pal's {"Personal Assistance Liasons"} have been assigned with no positive results. Most disappear after a few days or hours.

Page 50 *08/22/2008* March 12, 2007 I began calling Road Home to start the resolutions process. This was a nightmare. I spoke to so many people and was never assigned a "PAL", although I was told I would have one.

Page 51 *08/22/2008* I dont know the the resort of the appeal, I have had several Personal Application Liaison, however, none have resolved the problem. I completed the CAD, they sent it in in 2007.

CHAT third survey QUESTION #17:
Did you ask for a dispute resolution or appeal?

Have you been able to find out what happened to your dispute resolution or appeal? - Yes, 65; No, 133

If you lost, did you get an explanation of why in writing? - Yes, 26; No, 66

b. HUD OIG complaint

Page 3 The Louisiana Legislative Auditor in a Jan. 9, 2009 audit report .. stated the following.
☐ If applicants dispute their pre-storm value, Road Home employees check the PSV dispute flag in eGrants. If this flag is checked, ICF uses the highest prestorm value in the award calculation.
☐ However, because the policy says that applicants disputing their pre-storm must go through the resolution process, all applicants with a PSV dispute flag should have a corresponding issue in JIRA which is the system used to record and track disputes.
☐ However, we analyzed 50 applicant files of a total of 22,650 that had the PSV

dispute flag as of March 2008 and found that 27 of the 50 (54%) did not have an issue related to PSV in either JIRA or JIRA archives.

Page 36 Excerpts from a Dec. 7, 2007 Report on ICF by KPMG, LLC :
http://chatushome.com/chatusfiles/KPMG_Program_Review_Highlights_1_20_07.pdf
http://chatushome.com/chatusfiles/KPMG_Homeowner%20LA%20Assessment%20Task%20Final%20Report_Task%20Order%201A%20FINAL_12-07-07.pdf

During the period of our assessment, over 140 resolution team members have the ability to override values in eGrants. Though some audit trail functionality exists for tracking changes, it is not robust enough. When Program operations employees override values or change applicant data, the system does not require the employee does to input a comment or reason for the change. ICF should incorporate additional checks to require that overrides made to applications, especially applications involving Road Home employees, receive an additional layer of approval. The system should generate daily reports to track changes that require additional supervisor approval or review.
There is currently software coding within the eGrants calculator that checks for owner occupancy, eligible parish, verified data, income status, FEMA verification, insurance verification, JIRA holds and open issues, the option selected by the applicant, and whether the application is a Road Home outlier. The eGrant calculator is part of the internal controls related to grant processing and should not be overridden without a specific audit trail and clear supporting documentation that the manual override is correct and calculates the proper grant amount.
Early in the Program, ICF incorrectly input application ID's in the workorder database. The home evaluation team has since remedied this situation by running a series of tests to match eGrants application ID, address, and owner against data in eGrants. However, implementation dates for these tests and their results are not documented."

Page 36. Louisiana Legislative Auditor Performance Report on the Road Home Program's Data Warehouse Reliability, January 14, 2009
http://app1.lla.state.la.us/PublicReports.nsf/6F905AB4148A123C8625753D0066BD41/$FILE/00008378.pdf

P. 3-4. **Overall Results:** Although we did not perform a comprehensive controls review, we did identify several control weaknesses in the course of our work that could affect data reliability. Some of these weaknesses were cited in previous internal ICF reports on data integrity and have not improved. The weaknesses we identified include the following:
_ Users have roles that should be segregated. For example, there have been over 1,300 individuals who have the ability to edit applicant data and delete attachments and 65 (5%) of these are Road Home applicants who are also ICF employees.
_ ICF has not enabled the audit features in its database that would help log the actions of users.
_ ICF did not review all tables when it loaded data into the warehouse to ensure that the data loaded accurately and completely.
_ The pre-storm value flag in eGrants indicating that an applicant disputed his or her pre-storm value was not always supported with documentation. In addition, ICF did not begin tracking which employee checked the flag until our review began.
_ ICF has not developed sufficient documentation that details its systems and data tables.
_ OCD has not effectively monitored ICF's IT functions in part because it does not have any staff with expertise in this area.

8. Louisiana's recovery and its people have suffered because of the refusal of ICF to give applicants important notices in writing and data from their file to understand their grant and any errors.

a. Please see results of CHAT's third online Survey, pages 3-12 about applicants having trouble getting copies of their files.

b. HUD OIG complaint:

Page 24: Failure to give applicants important notices in writing according to Program rules. This noncompliance by the Contractor has been brought to the attention of LRA and OCD at public meetings, in emails, and in meetings between LRA and OCD officials and advocacy groups to no avail.

c. Recent representative emails from applicants

i. Re: [FoCHAT] CHAT News: New appeals promise by LRA disappears
Tuesday, May 5, 2009 10:13 PM
From:
"Leslie xxx" < @att.net>
Add sender to Contacts
To:
"Melanie Ehrlich" <mehrlich8@yahoo.com>

Melanie,

I received a copy of my file after the time for an appeal was over. I was basically told that I was out of luck and I have given up due to the stress and torment.

Leslie xxx
ii. From: xxx <xxx@yahoo.com>
Subject: Fw: appeal
To: Ty.Larkins@La.gov
Date: Thursday, April 30, 2009, 5:18 PM

Response to Ty Larkins--LRA

Date: Thursday, April 30, 2009, 4:53 PM

Received your response in regards to my appeal being reconsidered. What you are telling me is that the Chat organization misinterpreted Mr. Rainwater's decision to allow people the opportunity to have their case reviewed unless they appealed within30 days of their denial notification. My request to you was made due to the fact that I was unaware that there were two separate CAD evaluations done on my condominium,one for my interior and one for the common elements. When I requested my complete file under the public records request law L.A.R.S.44.1 I only received a copy of the CAD for my interior damage and not the one for common elements. .. Without having access to to the CAD report I was unable to dispute my share of the common elements... As a result of me being denied my complete file I feel that I was denied my proper grant award. Due to the failure of the RH

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program violating state law in not furnishing me with all the records
that was used in determining my grant award, I feel that my case
should be reconsidered.  How can anyone be afforded a fair appeal
without having access to their records.
```

xxx

9. Times-Picayune articles from which quotes were taken

http://www.nola.com/timespic/stories/index.ssf?/base/News/1225171260189970.xml&coll=1

Lose the attitude, not the paperwork
Tuesday, October 28, 2008
Jarvis DeBerry
The Road Home Program has messed over so many people in so many ways over such a long period of time that, at this point, it takes a particularly egregious error to attract attention now.

Vance Joseph Nimtz showed me such an error last week at the kitchen table at his Slidell house. In response to an appeal he had filed with the bureaucracy regarding his house on Painters Street in New Orleans, Road Home officials sent back documents that included Nimtz's information and information for two more families who had also made application to the program.

The information mailed to Nimtz included those other applicants' Road Home identification numbers, the addresses of their damaged properties and, for one couple, a detailed accounting of their insurance claim information, their insurance claim representative and a cell phone number.

Nimtz gave me the impression that all would have been forgiven if while sending him other applicants' information, Road Home officials had also granted him the extra money necessary to fix his Painters Street house. But the extra paper Road Home gave him wasn't the kind that folds up in Nimtz's wallet, but the kind that reminded him of the program's incompetence.

After the last envelope arrived, Nimtz, 50, said he called the program, only to listen to a woman who sounded young enough to be his daughter talk down to him. After he expressed dissatisfaction with the program's nonresponsiveness, he asked the woman to explain the extra information the program had sent him.

According to Nimtz she huffed and said, "If you can't bother reading it, I can't do anything for you."

Nothing annoys me more than stupid people talking down to me, so I had a sense of what Nimtz must have been feeling as he listened to the representative of a woefully inefficient and bumbling bureaucracy treat Nimtz as if he's some kind of mental deficient.

Nimtz explained that, in fact, he had read the documents before he asked the question and that what he saw disturbed him. "You sent me two other people's paperwork along with their ID numbers," he said.

There must be a cue card Road Home phone operators have that reads, "When confronted with Road Home's ineptitude, brazen it out." The list is long of idiotic things those operators have said when an applicant dares to speak truth to incompetence.

As if to excuse the program's carelessness, Nimtz said the woman told him, "I get my neighbor's mail all the time."

He said, "So do I, but it's usually addressed to my neighbor."

"Why don't you just shred it?" she asked him. He said he probably would have if she had spoken to him respectfully. "Her tone was getting more and more coarse," he told me. "I just didn't like it."

Instead, Nimtz called the newspaper. Apparently he's under the impression that Road Home officials can be shamed into doing the right thing.

I'm not sure that the extra information Nimtz was sent could have been used to apply for a credit card or otherwise co-opt another's identity. Even so, I'm sure there was a lot more information there than the other two applicants would want exposed.

"Someone really dropped the ball," Nimtz said.
Nimtz, a New Orleans street trumpeter, moved to Tampa, Fla., after Hurricane Katrina and has made it as far back as Slidell. But he hasn't made it home.
"My exile is not over yet," he said. He intends for his family to complete their odyssey, even if Road Home is against them. He points to their Slidell home as an example. "We bought this on our own."
As for Road Home, he said, "They're going out of their way to make this hard."
. . . .
Jarvis DeBerry is an editorial writer. He can be reached at 504.826.3355 or at jdeberry@timespicayune.com.

http://blog.nola.com/editorials/2008/12/missing_the_point_on_icf.html

Missing the point on ICF

Posted by Times-Picayune editorial staff December 14, 2008 4:06AM
Few Louisianians doubt they got the short end of the stick when former Gov. Kathleen Blanco granted the Road Home contractor a $156 million pay raise just weeks before leaving office.

ICF International's incompetence was well-established by then, and public anger over its Road Home's failures had forced then-Gov. Blanco to forgo a re-election bid. She surely knew ICF's pay raise would cause an uproar, which explains why her team executed it in a way that left the public and many legislators in the dark for months.

So Louisianians are scratching their heads now that a report by state Inspector General Stephen Street has concluded that the Blanco administration did not try to conceal ICF's raise. Even more startling, the report deemed the 25 percent pay raise justified mostly because of higher-than-expected estimates on the number of grants to be paid -- even though that was never the parameter for payment in ICF's initial contract.

Louisianians were outraged when The Times-Picayune publicly revealed the contract increase in March, more than four months after it had been approved by Gov. Blanco's team and three months after her administration had left power. Neither her team nor the governor had announced the increase when they approved it. After it became public, prominent lawmakers said they had learned of it only after The Times-Picayune contacted them for comment.

Mr. Street, however, seems to have used a very narrow view in determining that there was no evidence that the Blanco administration tried to hide the contract increase from lawmakers and the public.

He cited a statement the state sent to The Advocate in Baton Rouge about 10 days before ICF's pay increase was approved, saying a contract increase "may be necessary" because of higher-than-expected grant applications. The statement, however, had no details on any proposed increase amount.

The inspector general also noted that administration officials had been prepared to testify about the pay raise to the Legislature's joint budget committee, but the officials were never called to testify.

Raising the possibility of a pay hike with only one state newspaper and without providing any details is hardly sufficient public disclosure. And having officials prepared to testify in the Legislature serves little use if most lawmakers did not know about the pay raise and, therefore, had no idea they should ask for the information.

The Blanco administration's actions to "disclose" ICF's pay increase also were woefully insufficient compared to its trumpeting of most other Road Home developments -- the former governor even put her name on the program.

Just as surprising was the inspector general's acceptance of the Blanco administration's argument that ICF deserved the $156 million pay increase. He cites that by December 2007 the firm expected to pay 150,000 grants rather than the 114,000 expected initially. But the original contract did not establish payments based on the number of grants.

Even under that rationale, ICF would not have deserved as much as it got. The firm has paid about 121,000 grants and fewer than 10,000 eligible Road Home recipients are pending. That means the increase in grants will be only half of what the state estimated when it approved ICF's pay hike. Paul Rainwater, Gov. Bobby Jindal's point man for the state's recovery, said that's a reason why the state should never have given ICF the full raise at once.

Mr. Street also said that ICF faced higher costs because of numerous policy changes to the Road Home by the state. That's surely the case with some policy changes. But many of those changes were needed to clean up after ICF's failure to meet its obligations. One change, for example, required the firm to inform homeowners in writing of changes to their grants -- as opposed to doing it just by phone as was ICF's practice. Written notices should have been routine from the beginning.

In addition, the state has now taken over some of the functions the firm was supposed to perform.

Gov. Blanco is touting the inspector general report as evidence that she and her team did the right thing when they approved ICF's increase. But even if there was no misconduct on her administration's part, that does not change the fact that her team negotiated a sloppy contract leaving taxpayers little recourse to recoup unjustified payments -- and then failed to properly inform the public about the terms.

That was a disservice Louisianians won't soon forget.

http://www.nola.com/news/t-p/metro/index.ssf?/base/news-34/1242624008109530.xml&coll=1

"LRA is sued for its records: Watchdog seeking Road Home data"

Article in the Times-Picayune, May 18, 2009, By David Hammer, **Staff writer,**

A leading advocate for Road Home applicants is suing the Louisiana Recovery Authority for public records, some of which she requested nearly 11 months ago.

Melanie Ehrlich, co-founder of the Citizens Road Home Action Team, or CHAT, first sought information from the state on July 1, 2008, about key Road Home policy changes.

Ehrlich, who is scheduled to testify about continuing Road Home problems before a U.S. Senate committee in Washington on Wednesday, followed the July request with two more in October and December, seeking more information about appeals processes and applicant rights.

Last month, she filed suit in East Baton Rouge Parish, demanding the state comply fully with her requests. But a hearing scheduled before Judge Kay Bates on April 24 was canceled, and now each side blames further delays on difficulties contacting the other's lawyers.

The state is paying outside lawyers $175 an hour to represent LRA Executive Director Paul Rainwater in the case, agency spokesman Christina Stephens said.

Bates could not be reached this week to explain the delays, and no further hearings have been set.
The Road Home is a state-run, federally financed program designed to compensate Louisianans whose property was damaged by Hurricanes Katrina and Rita.

In court filings, Ehrlich cites e-mails from state officials promising to address her requests right away, but she alleges months passed with limited or no response.
State law gives the LRA three business days to turn over documents or to give a reasonable explanation for why the request can't be fulfilled.

Stephens said the state needed more time to address some of Ehrlich's far-reaching and occasionally vague requests, adding that since July, Ehrlich has expanded and complicated her requests.
"Had we had to take (LRA attorney) Dan Rees off what he was working on, such as insurance settlements for Road Home applicants and this contract transition (from one program administrator to another), key functions of the program would have stopped," Stephens said.

Rainwater has often said Gov. Bobby Jindal's administration is trying to streamline the convoluted Road Home processes it inherited from former Gov. Kathleen Blanco's administration.

But Ehrlich's lawsuit challenges Rainwater's leadership, naming him both in his official capacity and personally. It also demands specifics about his promised reforms and written proof for policy explanations.
In July, Ehrlich asked for all rules, communications and other written documents concerning the Road Home's new appeals process and the new state appeals panel, including a list of who sits on it. She said she received just one name, Lara Robertson, and minimal information about the timing of appeals.

In October, she asked for several documents and received some of them. But the LRA didn't turn over written criteria for deciding state appeals cases, she said.

The December request, which focused on documents the state is supposed to produce whenever it changes Road Home policies in the middle of the process, went completely unfulfilled, the lawsuit says. Such changes have been common, often to applicants' detriment.

Ehrlich, a biochemist whose highly technical familiarity with the Road Home's fine print can make her lines of questioning hard to follow, has been one of the most consistent and strident critics of the program over the years. As a citizen member of the LRA's housing task force, she has been a constant thorn in Rainwater's side. But with the once-laggard program finally managing to pay most of its money, Ehrlich has gone from leading a choir of thousands of disaffected homeowners to being largely ignored. She remains convinced that the state is trying to low-ball applicants.

Her watchdog efforts were on display when she got Rainwater in February to agree to offer certain applicants a new chance to appeal if they had not done so in 30 days because they were stuck in a discarded process known as "dispute resolution."

As promised, the LRA posted this on its Web site: "For many months we have heard of people who . . . were never able to exercise their right to appeal because their case was stuck in the 'resolutions' process, which ended earlier this year."

The post promised further review of such cases. But the state was overrun with telephone calls and e-mails, and Ehrlich's initial victory came to naught.

Ehrlich produced an e-mail from the LRA's Ty Larkins that seemed to revise history: "Unfortunately, there are no exceptions to the 30-day rule, as Mr. Rainwater did not say he was opening appeals to applicants who have gone pass (sic) the deadline. His comments were directed at serving persons who were in appeals who 'fell through the cracks' and therefore, never had their matters resolved."

....
David Hammer can be reached at dhammer@timespicayune.com or 504.826.3322.

http://www.pmcs-icap.com/pdf/March%202009%20Practical%20Points%20Approved.2009%2003%2013.pdf

Fred Tombar is back at HUD. He is serving as Secretary Donovan's Disaster Planning and Recovery specialist. Fred formerly worked with HUD in Contract Administration, and then moved to New Orleans to work with emergency housing after Hurricane Katrina.

http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-7/116486955266140.xml&coll=1

Blanco's letter goal met, LRA says: But many notices rely on unverified data, Thursday, November 30, 2006

By Coleman Warner
Staff writer
Louisiana's Road Home officials said Wednesday they have reached Gov. Kathleen Blanco's goal of sending out 10,000 final award notices to homeowners by the end of November, but acknowledged the financial information they used to calculate thousands of the awards has not been verified.

Road Home administrators are still working to eliminate delays in the flow of information from many insurance companies, whose role in the state grant program is to verify the amount of insurance proceeds homeowners received for their damaged properties. Because the verification process is so tedious, as many as 40 percent of the award letters may be based on unverified details, said Fred Tombar of Tombar Consulting Group, a company hired to help administer the $7.5 billion grant program.

Tombar said care is being taken in preventing mistakes in the final letters, after a review of a batch of preliminary award letters sent recently to homeowners revealed a 25 percent error rate.

Officials couldn't offer current error-rate details. The accuracy of the award letter depends on the accuracy of the insurance claim information provided by residents when they applied for a Road Home grant, intended to reimburse homeowners for uninsured hurricane-related losses up to $150,000.

Owners who provided correct information on their applications can bank on the award figures, and can even officially accept a grant -- called a closing -- although the information is not yet verified, Tombar said. That last-resort remedy, approved by Blanco's administration, requires the signing of an agreement that requires an adjustment of the grant terms if new information is turned up in the verification process, with the possibility that grant money issued in error would have to be paid back.

"This is it, the final letter, they're printed on gold paper," said Tombar, a New Orleans native. "The goal was to get 10,000 final letters to folks, and we've done that."

Thousands still waiting

While the 10,000 goal was reported topped Wednesday, the award letters still total less than 15 percent of roughly 83,000 people who applied for help through the federally financed program. The average award calculated so far is $64,992, officials have reported....

10. References for the unfairness of demands for paybacks ("recapture of funds") due to the program's mistakes in grant processing or changing rules.

This complicated program almost never explained to the applicants exactly how their grant was calculated .

For example, it withheld information about estimated cost of damage calculations (against RH rules) as well as how the pre-storm value was calculated.
Nonetheless, payback demands for overpayments (due to Road Home mistakes or often changing rules) by this extremely untransparent program are being made.

Here is a response from an applicant in our third CHAT survey, who was caught in this unfair payback trap.

Sun, 5/10/09 4:48:33 PM
... when i called to check on elevation grant , which they said i was eligible for, they hee-hawed around until one person finally told me that they had paid me too much and i would probably be owing them money, I told them they had my initial application for almost a year and i am sure they went over it with a fine tooth comb. When they finally told me what i was getting, I asked them if it was the right amount ,because it seemed like a lot and I was told" yes maam" if thats what they say you are entitled to then that is what you are getting. when we went for closing i asked again if that was the right amount, because i told them i would not be able to pay it back if it was not the right amount, they assured me it was the right amount.Now after 2 years they say i will probably have to pay them back, I do not know how they calculated the original grants for the Road Home Program. They had sent me some papers with the yellow papers but unfortunatly we lost them in IKE.They still tell me i am eligible for the elevation grant, but will probably keep that for back money they are claiming I owe them. My Husband and i are both on social security, i do not know how we will be able to pay them back, we live from check to check now.

Even scholars in Virginia found the program to be inscrutable for applicants.

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1350519

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Road Home generates an applicant's preliminary grant figure by calculating the dollar value of damage incurred to the pre-storm value of the home. From this, Road Home subtracts any insurance payouts that the applicant has already received to yield the total. The grantee must then make one of four choices, detailed in figure 3, all of which affect the final amount of the Road Home grant.
The numerous penalties and adjustments to which the grant calculation may be subject make it difficult for an applicant to forecast the final payout. For example, though insurance payouts were subtracted from the initial calculation, an applicant without homeowner's insurance (or flood insurance if located in a flood plain) is assessed a 30 percent penalty against the final award.

Testimony of Karen Paup, co director, Texas Low Income Housing Information Service,
before the Ad Hoc Subcommittee on Disaster Recovery
of the
Committee on Homeland Security and Government Affairs
United States Senate

Status report on the use of Community Development Block Grants (CDBG) funds to support disaster recovery along the Gulf Coast from the 2005 and 2008 hurricanes

March 20, 2009

Chairwoman Landrieu and Members of the Subcommittee, thank you for the opportunity to testify today about the status of disaster recovery in Texas and the effectiveness of Community Development Block grants in addressing the immense housing challenges caused by the hurricanes that have devastated our state in recent years.

I would like to express my sincere appreciation to you and the members of your staff who are working to create a better future for long-term disaster recovery. You have done a terrific job of raising awareness of the housing needs of Gulf Coast hurricane survivors and of supporting federal resources to help them recover. The thoughtful process with which you have addressed this issue and organized this committee hearing is a cause for optimism among survivors and advocates who continue to be overwhelmed by the immense housing needs left in the wake of Katrina, Rita, Ike, Gustav and Dolly.

I am Karen Paup, co-director of the Texas Low Income Housing Information Service (TxLIHIS). Our mission is to support low-income Texans' efforts to obtain a safe, decent, affordable home in a quality neighborhood. We collaborate with low-income housing consumers, anti-poverty advocates, housing developers and policy makers to achieve our mission. TxLIHIS does not represent any sector of the housing industry. Rather, TxLIHIS works only on behalf of and with low-income people.

In 2005, the onslaught of Texas disasters began with the massive evacuation of Hurricane Katrina survivors to Texas, followed by Hurricane Rita, which impacted one of the poorest regions of our state. In 2008 Hurricanes Ike, Gustav and Dolly followed the 2005 hurricanes, together creating a housing crisis in Texas unlike any I have seen in my 27 years as a housing advocate.

As a result, we have refocused much of our recent advocacy to this vulnerable population of low-income disaster survivors in need of safe, affordable, long-term replacement housing. For example, my organization took the lead on the Texas Grow Homes project, in partnership with the Texas Society of Architects, the Texas Department of Housing and Community Affairs, private financial institutions, and a Houston community development corporation to design and model innovative, affordable modular homes that can transform from temporary housing into a long-term home.

We take on projects such as this not to simply come up with ideas of how recovery programs could work better, but to use these housing models as tools for policy change. The status quo of disaster recovery we have witnessed in Texas is not working either efficiently enough nor quickly enough.

My testimony today will focus specifically on the role of Community Development Block Grant (CDBG) funding in disaster recovery in Texas. In keeping with the Committee's request I will focus my testimony on Texas' use of CDBG disaster relief dollars, and specifically on state-managed housing programs created in the aftermath of hurricanes along the Gulf Coast.

OVERVIEW OF TEXAS CDBG DISASTER RELIEF FUNDING AND ACCOMPLISHMENTS.

I preface my analysis with an overview of the CDBG disaster relief funding, which Texas has received and I will summarize the state's housing related disaster accomplishments to date.

Texas has received three rounds of CDBG disaster relief funding, two rounds related to Hurricane Rita and the third related to Hurricanes Ike and Dolly.

Unlike some Gulf Coast states, Texas received a fraction of the amount of funds needed to address the housing and infrastructure damages sustained in this state.

With regard to disaster relief funding related to Hurricane Rita, in large part, Texas received inadequate federal funding because of FEMA's under-estimation of the number of homes and extent of damages brought about by Hurricane Rita. FEMA reported that 11,195 Texas homes had "severe" or "major" damage due to Hurricane Rita.[1] However, the Governor's office estimated that more than 75,000 homes had been damaged or destroyed. In addition, the governor estimated some 40,000 uninsured homeowners would need federal assistance to re-cover.[2]

After the federal Administration's second supplemental appropriations request only included funding for Louisiana, Texas Governor Rick Perry requested $2.017 billion in CDBG assistance including $367 million for housing.[3]

[1] Report of the Federal Emergency Management Agency, March 21, 2006.
[2] *Texas Rebounds: Helping Our Communities and Neighbors Recover from Hurricanes Katrina and Rita,* Governor Rick Perry and Commissioner Michael Williams, February 2006, pp. 12, 22. Available: http://www.governor.state.tx.us/files/press-office/Texas-Rebounds.pdf.
[3] *Texas Rebounds: Helping Our Communities and Neighbors Recover from Hurricanes Katrina and Rita,* Governor Rick Perry and Commissioner Michael Williams, February 2006, p. 5. Available: http://www.governor.state.tx.us/files/press-office/Texas-Rebounds.pdf.

Governor Perry also testified before the March 8, 2006 Senate Appropriations Committee hearing on the supplemental request, requesting $2 billion dollars in CDBG disaster recovery funding for Texas. Texas Senator Kay Bailey Hutchison pointed out that in addition to damages suffered as a result of Hurricane Rita, Texas had used its regular CDBG allocation to assist Katrina evacuees from Louisiana. The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery (P.L. 109-234), which became law in June 2006, included $5.2 billion in CDBG disaster assistance for the five states affected by the 2005 hurricanes. Congress left HUD to make allocation decisions between the states.[4] HUD allocated $4.2 billion to Louisiana and established a new methodology, in part because of pressure from Texas officials, to allocate the $429 million of the remaining $973 million to Texas.

Yet with the additional funds provided in the second round, Texas still had far too little money to address the housing needs of Hurricane Rita survivors, not to mention the Katrina evacuees who had moved to Texas. Even if all of approximately one-half billion dollars of funding in combined Round I and Round II appropriations had been directed toward housing, there would have been less than $7,000 to address each of the approximately 75,000 households impacted by Hurricane Rita.

Texas earmarked a substantial portion of Rounds I and II Rita funding to housing, a combined 84% of the available funds.

The following table indicates the funding levels from Rounds I and II and the funds set aside from each round to provide housing assistance.

Round	Total allocation	Housing funds	Housing percent
Rita I	$74,500,000	$40,885,181	54.9
Rita II	$428,600,000	$383,500,169	89.5

Lacking any experience in administering large-scale disaster recovery funding, Texas initially turned to regional consortia of local governments to administer the funds.

These consortia of local governments are known in Texas as Councils of Government (COGs). The councils are comprised of representatives of cities and counties within particular regions of the state. Round I of the Hurricane Rita funding was administered under a program where the councils of governments in the disaster-impacted areas became grant subrecipients and developed and administered their own programs with oversight provided by the Texas

[4] Eugene Boyd, *CRS Report for Congress: Community Development Block Grant Funds in Disaster Relief and Recovery,* April 25, 2006. Order Code RL 33330. 8. Available: http://cip.gmu.edu/archive/DisasterRecovery_CDBG.pdf.

Department of Housing and Community Affairs.

In the wake of long delays and inefficient administration of the Round I program by the councils of government, a new approach was taken to the administration of Round II funds. The state agency charged with operating housing programs, the Texas Department of Housing and Community Affairs (TDHCA), undertook to directly administer the housing disaster relief funds in the second round.

Rita II has been administered under a plan in which the state has not utilized subrecipients. Instead the state administered the program itself, using a prime contractor (ACS) to manage the program, including intake, qualification, and construction management. ACS has used two major subcontractors, Shaw Engineering to assist in construction management and Reznick to assist in benefit determinations.

Congress appropriated $1.3 billion in CDBG funds to Texas as initial funding to provide disaster assistance for Hurricanes Dolly and Ike. Texas Governor Rick Perry adopted a third different approach for the administration of these funds, designating the state Office of Rural Community Affairs (ORCA) to assume overall administrative responsibility under a plan which involves local communities in making decisions on where and how funds are utilized. The councils of governments make decisions as to which entities (including the councils of governments themselves, if they so elect) within their jurisdictions will be subrecipients and how the funds will be allocated between housing and non-housing activities.

The councils of governments elected to drastically reduce the percentage of funds for housing and to increase funding for infrastructure and economic development. Whereas under the Rita disaster assistance programs 84% of funds were earmarked for housing, the councils of governments earmarked a mere 47.9% of funding from the Hurricane Ike and Dolly disaster assistance funds for that purpose.

Round	Total allocation	Housing funds	Housing percent
Ike / Dolly I	$1,300,000,000	$622,752,828	47.9

All three rounds of funding have included provision for state-administered affordable rental housing set-asides, albeit at the minimum levels required by Congress.

ACCOMPLISHMENTS

The table below summarizes housing expenditures under each round of funding.[5]

[5] Correspondence with Texas Department of Housing and Community Affairs, May 15, 2009.

Program	Housing funds	Housing funds expended	% Expended
Rita I	$40,885,181	$27,258,022	66.7
Rita II	$383,500,169	$54,503,647	14.2
Ike / Dolly I	$622,752,828		
Totals	$1,047,138,178	$81,761,669	

The accomplishments to date of the Rita I housing program administered by the councils of governments (officially begun in July 2006) is as follows:

Total rehabilitated/reconstructed 223
Total manufactured housing units delivered 240
Additional manufactured housing units ordered but not delivered 23
Additional houses under construction 24
Additional units out for bid 1
Total housing units .... 511[6]

The accomplishments to date of the Rita II housing program administered by the Texas Department of Housing and Community Affairs (officially begun in April 2007) is as follows:

Total homes completed 23
Homes under construction 231
Closings 369
Total housing units .... 623[7]

Plans for the Hurricane Ike / Dolly I funding have not yet been finalized.

[6] Board book, Board meeting of May 1, 2009, Texas Department of Housing and Community Affairs.
[7] Board book, Board meeting of May 1, 2009, Texas Department of Housing and Community Affairs.

COMMENTARY ON UNDERLYING POLICIES, QUALITY OF SERVICE DELIVERY, PROGRAM MANAGEMENT AND ADMINISTRATION, CASE MANAGEMENT SUPPORT, EFFECTIVENESS AT MEETING THE NEEDS OF HOMEOWNERS AND RENTERS, CONSISTENCY, EQUITY, AND OTHER ISSUES.

As has been noted above, Texas received only a fraction of the amount of funds from Congress needed to address all of the housing needs resulting from the 2005 and 2008 hurricanes. To their credit, out of the funds made available for Hurricanes Katrina and Rita, state government allocated a significant portion to assist individuals to repair or reconstruct their homes. Furthermore, the limited availability of CDBG funds led Texas officials to prioritize Hurricane Rita funding to lower income homeowners. We strongly believe that the state acted responsibly in these two decisions.

The Texas approach to providing housing assistance was also shaped, in part, by a reaction by the state's political leadership to the perceived shortcomings of the Louisiana approach of providing direct cash payments to individuals. Texas leaders sought to ensure that the public funds were spent for housing and not other purposes, that the money stayed within the community and that no one be perceived as having used their disaster settlement funds inappropriately.

The Texas solution was to provide direct housing assistance to individuals in the form of contracted repairs or housing reconstruction and not in the form of cash payments. This assistance has been overseen by either state, regional or local government entities.

This approach offers protections and potential advantages to low-income persons. The poor, elderly and persons with disabilities often lack the wherewithal to negotiate with construction contractors for substantial repairs to their homes or for complete reconstruction. This is particularly the case in Gulf Coast states, which do not license contractors and which provide few if any remedies to consumers who are victimized by unscrupulous contractors.

Yet the interposition of government between the individual hurricane survivor and the housing contractor has produced a set of problems for Texas. These problems fall into the following categories:

- Inexperience and inefficiencies of government entities administering affordable housing programs;
- Additional requirements imposed by the CDBG statute upon government administered housing programs; and
- Difficulty resolving issues associated with very low-income homeowners such as duplication of benefits, gap funding requirements, and heirship or

other lack of clear title.

The lack of adequate funding to deal with all of the housing needs of hurricane Rita's survivors has also proven to be a huge challenge. In Texas the maximum housing grant made available under the Rita II program does not reflect the true cost of rehabilitation or reconstruction. Initial maximum grant amounts were $65,000 for complete housing reconstruction. This is in contrast to the $150,000 levels available to homeowners in Mississippi and Louisiana. The decision to set such low benefit levels in Texas was based on the large number of households needing assistance coupled with the inadequate federal appropriation levels. As a result, houses constructed under the program are built with less durable materials, poorer design, and are physically smaller sometimes resulting in households being overcrowded.

Texas has experimented with three different approaches -- regional, state and local delivery of government housing disaster assistance. The initial undertaking was a regional approach through which councils of governments established housing programs to assist individuals. As regional planning entities, the councils of government have little to no experience in direct delivery of affordable housing programs. Their lack of previous experience proved crippling to their efforts to implement the massive housing programs.

It took the councils of governments many months simply to staff up to administer the housing programs. Even after staff was in place, the councils fell far short of original contract goals. These contracts, which became effective in July 2006, are still ongoing but to date have produced just over 500 houses (fewer than 15 houses per month), approximately one half of which are manufactured units.

Both the low levels of maximum reconstruction allowances in the Texas program and decisions made by the COGs have raised housing quality concerns. The number of manufactured housing units used for replacement housing raises quality problems and lowers community acceptance of the housing. Replacing site built homes with manufactured housing units that are more vulnerable to future hurricanes is a questionable practice.

The state's second approach, having the state housing agency provide housing disaster assistance seems to us to be the most promising despite being plagued by an extremely long start up period. While state government had experience with contracting and designing affordable housing programs to rely upon, it lacked direct experience with implementing programs itself. It had never undertaken a housing program on such a large scale before.

Under Rita I, the councils of government quickly abandoned their plans to repair homes and elected the simpler task of replacing houses with site built and manufactured homes. Under Rita II the state housing agency has undertaken both rehabilitation of homes and reconstruction.

The decision by the state to undertake direct administration of the Rita II program caused both delays and cost increases with CDBG environmental, lead paint and asbestos abatement and mold remediation requirements being triggered.

The slow start up of housing assistance programs has resulted in the widespread deterioration of homes. This has greatly increased the cost of reconstruction and rehabilitation that has in turn reduced the number of households that can be assisted with the limited funds.

Despite the unconscionable length of time it took to make the Rita II program operational, the program procedures are generally fair and the design of the program is, with the notable exception of unreasonably low benefit levels, well thought out. We believe that this program will ultimately prove to be the most successful approach.

We have no such optimism for the success of the approach that the state is planning to use to administer the allocation of disaster assistance CDBG funds for Hurricanes Ike and Dolly. The approach involves a combination of regional allocation of funds through the councils of governments and local administration of funds by cities, counties and in some cases the councils of governments themselves.

The previous experience under Rita I has proven the inability of the councils of government to provide housing rehabilitation or to provide housing reconstruction in a reasonable timeframe. There are some larger local governments that may prove capable of administering housing programs but much of the area impacted by Hurricane Ike consists of small municipalities and counties with no previous housing experience.

As the councils of government struggle to complete their Rita I $40 million contract, the state is now handing these councils the responsibility for administering the Hurricane Ike / Dolly CDBG program totaling $1.3 billion.

This curious situation appears to have its origin in the agency which the governor selected to administer the Hurricane Ike / Dolly CDBG program, namely the Texas Office of Rural Community Affairs (ORCA). Just as Mississippi's selection of its economic development agency to administer funds for disaster relief skewed funding to economic development, so too did Texas's selection of ORCA skew the administration of the CDBG program. Another result is the substantial reduction of funding for direct housing assistance to individuals and increased funding to public works and infrastructure.

ORCA administers the State of Texas small cities CDBG program.

The purpose of state administered CDBG programs have strayed from being focused upon the needs of low- and moderate-income people to become a state revenue-sharing program for infrastructure. Under ORCA, funding decisions for the state's small cities CDBG program are made by regionally selected groups of local government officials such as the councils of government. The CDBG funding allocation process has become not an assessment of local needs of low- and moderate-income communities and individuals but a proportional allocation of funds among regions and within regions by local elected officials to be used for general public infrastructure. Housing and community revitalization programs have virtually vanished from the state's community development program. Therefore, there is no local capacity to carry out programs to provide housing.

The process of local control of disaster assistance funds is taken to an absurd degree in the sub-allocation of CDBG funds in the plans of one council of government. This council of government has proposed to not only divide Hurricane Ike / Dolly CDBG disaster funds proportionately among counties within its jurisdiction but to allow counties to further subdivide funds in equal proportions among county commissioners within counties. Funding amounts at the very small resulting levels are meaningless. There is no ability to focus on overall needs or to have any efficiencies in program administration.

In the Hurricane Ike recovery plan submitted to HUD, the state failed to provide any details on the plan, simply delegating authority to councils of governments to make decisions regarding funding allocations between housing and infrastructure. In essence, the CDBG action plan submitted by the state to HUD is merely a plan to have the councils of government develop plans for the expenditure of funds.

While there is a clear understanding on the part of local officials about public infrastructure needs there is no knowledge regarding how to assess individual housing needs.

Tragically, the state's CDBG disaster recovery program for Hurricanes Ike / Dolly turned over all responsibility for deciding what portion of the funds would be used for direct assistance to individuals for housing and what portion would be used for public infrastructure to the councils of government. ORCA sub allocated funds regionally to councils of governments based on flawed FEMA data and in turn gave the councils of governments no useful data to make their decisions dividing available funds between housing and infrastructure.

As a result the councils of government have designated a mere 47.9% of Hurricane Ike / Dolly CDBG funds for housing as opposed to the combined 84% set aside for housing under the Hurricane Rita programs.

Equally tragic, the COGs are made responsible for the design, eligibility criteria and operation of the woefully inadequate portion of funds that they have set aside for housing reconstruction and rehabilitation despite their lack of experience in this area.

There are few resources with which COGs and cities can contract to undertake the qualification, client services, and rehabilitation or reconstruction of housing for low-income populations. Infrastructure needs on the other hand have many vendors readily available seeking funding from local governments. Hence, public funds go where the providers are readily available to spend them.

The situation confronting renters who have lost their homes to the hurricanes is even bleaker. There is absolutely no infrastructure at the state or the local levels to rebuild rental housing for the poor. There is an infrastructure to build Low Income Housing Tax Credit units but such units are not affordable to the majority of the poorest renters absent their ability to get a Section 8 voucher. To our knowledge, no one has found a programmatic strategy that effectively addresses the need to rebuild rental housing for the poor. Despite the large percentage of rental housing destroyed in Hurricane Ike, the state's action plan for use of the CDBG funds proposes to allocate only the minimum required by Congress to rebuild rental housing.

Renters displaced by natural disaster who are elderly, persons with a disability or single parents in low wage jobs with children require long-term Section 8 benefits. Simply rebuilding unaffordable rental housing under the tax credit program will not solve their housing problem.

The results of Texas' current scenario for Ike/Dolly are easy to predict. The housing funds will be administered in an inconsistent and arbitrary manner from jurisdiction to jurisdiction and the provision of housing assistance is likely to be even slower than under the Hurricane Rita programs with the result being even fewer funds being set aside for housing assistance in any future CDBG allocations for Hurricanes Ike and Rita despite the overwhelming needs.

RECOMMENDATIONS

Our recommendations here build upon and support those that we offered in our previous testimony before this committee. That testimony dealt with reforms that were needed concerning FEMA's emergency housing programs. As we pointed out in that testimony neither FEMA's emergency programs nor HUD's long-term disaster relief programs (which are the subject of this testimony) should be treated without consideration of the other. Indeed, the failure to coordinate between FEMA and HUD assistance results in both major financial inefficiencies to the government and needless delays, confusion, and inadequate rebuilding resources for disaster victims.

Therefore, we see the reforms set out in my previous testimony regarding FEMA's programs as the necessary prerequisite to successfully reforming the HUD disaster assistance CDBG program.

One critical area in which these two programs must work together is the integration of the FEMA damage assessment process with the CDBG disaster recovery planning process. The FEMA damage assessment process must collect data regarding the economic characteristics of households in need of housing assistance along with adequate data to assess the nature and cost of housing restoration for each household and pass that information on for planning purposes to those who are developing the CDBG disaster recovery plan. The current FEMA data collection systems do not capture adequate data for long-term housing planning purposes.

A second critical area where FEMA and HUD must work together is in the establishment of a case management process to assist lower income households to rebuild or otherwise obtain affordable housing. In previous testimony before this committee I outlined how such a case management system should work. A central feature is the assignment of a case manager to follow a low-income household from the immediate post-disaster period all the way through the process of obtaining permanent housing.

The third critical area for FEMA and HUD programs to coordinate is in the strike teams that would be deployed quickly following the disaster to make emergency repairs to both rental and owner occupied housing to either restore the housing for occupancy or to secure the housing to prevent further deterioration.

We believe that an essential part of reform is the establishment of a clear congressional disaster relief policy. In the wake of recent disasters, Congressional response has largely consisted of appropriation of supplemental funding under the CDBG program. There should be a clear Congressional mandate regarding the goal of the disaster assistance.

While many CDBG regulations form a useful basis for a disaster block grant, HUD's practice of waiving CDBG regulations, especially waiving income limits, means that the interests of renters, the poor, and minorities are often ignored.

We propose that Congress establish as the primary objective of the country's disaster relief policy to be that every citizen who survives the disaster be able to obtain a decent, affordable home in a quality community. We emphasize that the restoration of housing for our citizens should be the primary goal of disaster relief and that the secondary goal should be the restoration of public infrastructure and the economic vitality of the communities that are affected by the disaster.

In order to carry out disaster relief we recommend the establishment of two new grant programs within the US Department of Housing and Urban Development. These programs could operate as subsets of the CDBG or as separate block grants.

The first program or block grant would be known as the Community Facilities Restoration Block Grant and would provide funding for the restoration of public infrastructure, reimbursement of costs associated with storm cleanup and community economic development activities.

The second program or block grant would be known as the Affordable Housing Restoration Block Grant. This grant would provide funds over and above those provided under the Stafford Act to achieve the primary congressional goal of ensuring citizens are able to obtain a decent affordable home in a quality community. CDBG income requirements could not be waived for the housing program; however, requirements could be set to prioritize serving lower income households.

The Affordable Housing Restoration Block Grant would provide funding for:

- Continuation of case management service established under the FEMA emergency program;
- Funds for direct assistance to homeowners for rebuilding or reconstructing homes;
- Funds to establish programs to build new rental and owner occupied housing within a disaster area;
- Funds to repair existing rental housing under the Emergency Repair provisions of CDBG, if that level of repair would return units to habitability;
- Funds to repair existing rental housing to Housing Quality Standards and local codes;
- Funding to reimburse faith-based and nonprofit organizations for costs associated with their efforts to provide emergency repairs and housing reconstruction to individual disaster survivors;
- Section 8 block grant funding to make permanent Section 8 housing choice vouchers available to extremely low-income renter households;

- Funding for low income housing tax credits to rehabilitate or produce additional rental housing within disaster regions; and
- Funds to pay for emergency housing rehabilitation strike teams.

Congress's ability to obtain accurate information regarding funding needs for the Community Facilities Restoration Block Grant and the Affordable Housing Restoration Block Grant is dependent upon reforming the FEMA damage assessment process to ensure that rapid and accurate assessments of damages are made available to Congress. Congress should not be left in the position it has been in the wake of recent disasters of appropriating funds based on incomplete and inaccurate damage assessments. Nor should states or local governments be placed in a position to make decisions on the allocation of funds between housing and infrastructure without access to accurate needs assessment data. Using a combination of field inspections and reports from case managers FEMA should report housing block grant needs to Congress within 120 days of the disaster declaration.

We believe that the FEMA estimates should be complete enough to allow the congressional block grant to specify funding levels separately for owner occupied and renter occupied housing and should further provide information concerning the income of affected families so that accurate levels of appropriations to specific housing programs could be made.

We argue that a separate housing section within CDBG or in addition to CDBG be established for a number of different activities. Our purpose is to ensure that these activities will actually be carried out. As we noted in our previous testimony before this committee for example the housing assistance provided by faith-based and nonprofit organizations in the wake of the recent Gulf Coast disasters has proven to be some of the most useful and cost-efficient. Yet these faith-based groups have often had great difficulty in raising funds to pay for building materials to fully utilize their volunteer labor forces. Faith-based groups are often incapable or are unwilling to deal with the complexities of CDBG regulations in order to access funds to undertake housing rehabilitation. Local governments do not understand faith-based groups needs nor do they understand how to deal with them as they have had little, if any, previous experience interacting with them. Many faith-based groups are philosophically adverse to dealing with government. Thus this resource goes underutilized in many cases. The inclusion within the Affordable Housing Restoration Block Grant of a section to provide reimbursement to faith-based groups would leverage their involvement in future disasters.

We recommend a specific appropriation to offset the costs of the provision of permanent Section 8 Housing Choice Vouchers to households comprised of pre-disaster renters or owners who are elderly persons, persons with disabilities or single parents with children with incomes below 60% of the area median family income, who choose not to rebuild their homes, who choose to move to another community, or if they were renters, who choose to continue in the same community.

When disaster impacts extremely poor households there needs to be a conscious policy decision at the federal level as to whether it is adequate to simply restore them to some equivalent ill-housed, socially undesirable and impoverished condition or whether we as a nation have an obligation to address their long-term housing needs on a permanent basis.

We know how to solve these housing problems. We have programs that do so for millions of Americans. The Housing Choice Voucher program is the most efficient solution.

When a poor family that was ill housed or marginally housed prior to a disaster loses their housing, they should be provided a clear, stable, permanent, decent and effective type of housing assistance. The reliance upon temporary programs like FEMA's assistance and upon temporary HUD voucher programs is morally unacceptable. We lift the family out of shelter poverty for a brief period of time through temporary assistance only too often to allow them to fall to a level more wretched than their pre-disaster condition. The focus with rent vouchers upon temporary housing assistance is completely inappropriate for the poor. It is based upon the fallacies that the market will quickly restore low-cost rental units and that a family in long-term poverty will magically rise out of poverty in the wake of total devastation and massive personal and social trauma.

We believe it is critical that victims of disasters have uniform access to housing assistance on substantially equivalent terms across an entire disaster region. The local control model adopted in Texas has resulted in widely varying benefit levels of housing recovery assistance across jurisdictions. Within one jurisdiction a household might receive a new house costing $120,000 while in an adjoining jurisdiction a similarly situated household may be denied benefits. This raises substantial equity problems.

Effective provisions for the enforcement of fair housing laws are especially important. The duty to "affirmatively further fair housing" must be taken seriously and must be assigned to each government entity involved in the recovery process. The provision of housing assistance to evacuees on a regional basis as opposed to a local jurisdictional basis is a critical tool to affirmatively further fair housing opportunities.

HUD's failure to monitor and enforce fair housing laws in the administration of disaster assistance funds has allowed local governments to use funds in a manner that deny housing opportunities and reshape city economic and racial compositions using disaster relief funds to exclude the poor and minorities.

We must go beyond mere enforcement of the fair housing laws to promote mobility options on the part of low-income households who are victims of disasters. Therefore we recommend that major disasters and disasters affecting a significant number of lower income households trigger the establishment of a moving-to-opportunity program in which case managers and specially trained counselors would provide assistance to households at or near the poverty level to develop mobility plans to locate housing in areas that provide employment opportunities for which they may be eligible.

In order to oversee disaster relief programs, to more effectively support local rebuilding efforts, and to expedite the rebuilding process we recommend the establishment within HUD of an Office of Disaster Preparedness and Recovery. This office would be charged with a number of important duties:

1. Rapid deployment of planning teams and volunteer resources to work with states and local governments to develop regional housing plans to meet the full range of housing needs of disaster survivors.
2. Development of affordable housing program templates and models that could quickly be adopted and implemented in the wake of disasters.
3. Research and development of housing design and construction techniques that can quickly be used to rebuild higher quality, storm resistant affordable housing.
4. Training and certification of housing case managers to work one-on-one with lower income families to obtain their permanent housing.
5. Pre-development of protocols to mobilize faith-based and volunteer organizations both for strike teams and long-term rebuilding.
6. Professional planning staff to work with FEMA to develop a joint HUD/FEMA integrated housing needs assessment system to provide data collection and reporting procedures to obtain useful information to inform Congress and state and local governments regarding the detailed affordable housing needs in the wake of a disaster.
7. Fair housing staff and moving-to-opportunity program team to work with state and local governments to ensure the affirmative furthering of fair housing and the provision of housing options to poverty level disaster survivors.

In addition to these resources, the HUD Office of Disaster Preparedness and Recovery would have primary responsibility to inform Congress regarding affordable housing block grant appropriation needs in the wake of disasters and would have authority to approve state disaster recovery plans.

As I emphasized in previous testimony before this committee, all of this needs to be considered in the context of the need to recognize the additional needs of low-income victims. Case managers working with low-income people should know what the needs of the families are for reconstruction and this information should serve as a basis for a rational allocation of funds for housing. The case managers should convey this information to state and local governments prior to the decisions being made regarding allocation levels between housing and infrastructure.

Finally, housing resources provided under the Stafford Act need to be coordinated and combined with HUD housing disaster assistance to provide a quickly deployable house that can form the basis of a long-term permanent home for low-income families.

We are extremely grateful for the Committee's focus upon improving disaster housing assistance. This is truly one of the most important problems in affordable housing today. We appreciate the opportunity to be able to present our experiences and ideas and stand ready to assist the Committee and its staff.

WRITTEN STATEMENT OF REILLY MORSE
SENIOR ATTORNEY, KATRINA RECOVERY OFFICE
MISSISSIPPI CENTER FOR JUSTICE

UNITED STATES SENATE HEARING OF
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
"THE ROLE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN DISASTER RECOVERY"

May 20, 2009

I. INTRODUCTION[1]

Good afternoon. I am Reilly Morse, a senior attorney in the Katrina Recovery Office of the Mississippi Center for Justice in Biloxi, Mississippi. I thank Madam Chair Senator Landrieu, Ranking Member Senator Graham, and the members of the subcommittee for holding this hearing on state-managed housing programs created in the aftermath of hurricanes along the Gulf Coast. I also thank the U. S. Department of Housing and Urban Development (HUD) and the Federal Emergency Management Agency (FEMA) for their efforts to house Gulf Coast residents following emergencies and natural disasters.

The Mississippi Center for Justice ("MCJ") is a nonpartisan, nonprofit, civil rights legal organization that was founded in 2003. It was formed to provide a home-grown means to advance racial and economic justice in Mississippi. In 2005, MCJ became the Deep South affiliate of the Lawyers' Committee for Civil Rights Under Law ("Lawyer's Committee"), a national civil rights legal organization formed in 1963 at the request of President John F. Kennedy to harness the private bar's resources to remedy racial discrimination. In the wake of Hurricane Katrina, MCJ opened a Katrina Recovery office in Biloxi, where we joined forces with the Lawyers' Committee as well as attorneys and law students from across the nation to provide free legal representation to all kinds of people, but especially low income people. In that state of crisis we helped devastated Mississippians get emergency shelter and temporary housing; access to FEMA trailers for disabled victims of the storm; protection of basic tenants' rights in eviction proceedings from both public and private housing; greater access to disaster recovery grants and loans for homeowners; and protection for homeowners faced with inequitable foreclosures, insurance company stonewalling, contractor fraud, and heir title problems.[2]

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[1] I express appreciation for their assistance and support in preparing this testimony to Joe Rich and Thomas Silverstein at the Lawyers' Committee for Civil Rights Under Law, Karen Lash, Martha Ertman, visiting students from Columbia School of Law, Catholic University of America, and to Gulf Coast housing advocates for their research and advice.

[2] MCJ's responses draw in part upon our experiences in partnership with the Lawyers' Committee for Civil Rights Under Law, which is described in Jonathan P. Hooks, Trisha B. Miller, *The Continuing Storm: How Disaster Recovery Excludes Those Most in Need*, 43 California Western Law Review 21 (Fall 2006).

MCJ and the Lawyers' Committee achieved these results by conducting direct service clinics, research, surveys, and policy advocacy on behalf of lower-income and minority hurricane victims and communities in the region.

I am the third-generation of my family to practice law in Gulfport, Mississippi. I served a term as a municipal judge, worked as a city prosecutor, and later hung out a shingle as a solo practitioner. In October, 2005, I joined the Mississippi Center for Justice, Katrina having reduced my law office to a slab, left me nothing to salvage but that shingle, and nothing to do but take bankruptcy. My parents and grandparents weathered the two major hurricanes of their day, the 1947 storm and Camille. I experienced Camille as a seventh grader, and faced. then as now, the demands of rebuilding lives after catastrophe. My family and our home survived Katrina, but the clients I represent here today were not so fortunate. On behalf of those clients, I come with two requests. First, I urge you to support efforts to accomplish the important and still-unfinished task to restore safe, decent, and affordable housing to thousands of residents who deserve, but have been denied, the benefit of Mississippi's CDBG-funded disaster recovery programs. Second, I urge reforms in disaster CDBG legislation so that future disaster victims will experience a more prompt, fair, and consistent recovery response.

II. SUMMARY

A. Low-Income Mississippians Disproportionately Impacted by the Storm -- and Also Disproportionately Left out of the State's Recovery Programs

Hurricane Katrina "had a particularly devastating impact on low-wealth residents who lacked an economic safety net," according to the Mississippi Governor's Commission, creating a "unique opportunity to correct decades of inequitable development."[3] Congress concurred, requiring the states to spend at least 50% of the $11.5 billion in CDBG disaster recovery funds to benefit people of low and moderate income (LMI).[4] The U. S. Department of Housing and Urban Development's (HUD) regulations acknowledged Congress's intent that the appropriated CDBG funds be "used toward meeting unmet housing needs in areas of concentrated distress."[5] and implemented the LMI requirement.[6] Yet Mississippi, with the nation's largest per capita poverty population, was the only state to request and receive waivers from this requirement. Over the three and a half years after Katrina, HUD granted all five waivers requested by

[3] Governor's Commission on Recovery, Rebuilding, and Renewal, "After Katrina: Building Back Better Than Ever", pp. 60-61. ("Governor's Commission Report.")

[4] Department of Defense Appropriations Act, 2006, Public Law 109-148, December 30, 2005, 119 Stat. 2680, 2780.

[5] 71 Fed. Reg. 7666 (Feb. 13, 2006).

[6] "[T]he aggregate use of CDBG Disaster Recovery funds shall principally benefit low and moderate income families in a manner that insures that at least 50% of the amount is expended for activities that benefit such persons." U. S. Department of Housing and Urban Development, February 13, 2006, 71 FR at 7671.

Mississippi with the result that $4 billion out of the $5.481 billion awarded to the state was exempted from any obligation to assist LMI households.

B. Thousands of Mississippians Excluded From Mississippi Recovery Programs Because they Lost Their Homes to Wind – Not Water

Last summer, I told a House committee about Joe Stevens, whose home in the Lyman community was destroyed by a tornado spun from Hurricane Katrina but whose application for a housing grant was denied because Mississippi refused to compensate for wind damage. Stevens drew the attention of some Jackson-area businessmen who pooled charitable resources to do what the state should have done -- house this fisherman who lost his legs to diabetes, his daughter to suicide, and his house to Katrina.[7] Individual charity, while laudable, is not an appropriate solution when Mississippi still sits on over half the $5.481 billion Congress gave us to recover from this catastrophe.

Earlier this month, I met James Johnson, 74, who was forced by gout to retire shortly before Katrina, after fifty-six years working at Newman Lumber Company. Mr. Johnson, who is African American, saw Hurricane Katrina's winds destroy the residence he had built and lived in for sixty years on Landon Road. After staying for a while in his brother's damaged mobile home on the adjacent lot, Mr. Johnson received a FEMA trailer that he has occupied since. He lives on a monthly Social Security check of $1,350. Last week, FEMA demanded that Mr. Johnson vacate the trailer, leaving him with no alternative to moving into a tent on his barren property. Two miles from Mr. Johnson's trailer is a staging area with over 600 unoccupied pastel-colored Mississippi Cottages. But the cost of purchasing and insuring a cottage is out of Mr. Johnson's reach.

Our state deems Mr. Johnson to be too financially irresponsible to receive relief for having failed to insure a house he owned outright against storm damage. But Mississippi has rewarded moral hazard within the business community. The state has awarded hundreds of millions of dollars in CDBG grants and other subsidies to utilities, state-owned ports, and other large enterprises whose losses on the coast or far inland exceeded their own insurance. Between 2000 and 2500 , considered hardship cases, are left to scrap over a belated $15 million CDBG contribution for repairs administered by charitable housing resource centers. Mississippi must, as it rebuilds its roads, bridges, ports, schools and businesses back better than before, also rebuild homes to house workers, customers, and children traveling those highways and through those buildings. And in the process, it must remedy generations of neglect and deprivation in my State.

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[7] Chris Joyner, "One Family Filled with Hope," Clarion Ledger, December 1, 2008, A-1.

C. Mississippi Has Spent Only 21% of its CDBG Funds to LMI Mississippians and Less than 2% of its CDBG funds to Address the Coast's Highest Need for Subsidized Rentals for the Working Poor

Today, many Mississippians still have been unable to return to safe permanent and affordable housing. Overall, 220,384 housing units in Mississippi received some damage from Hurricane Katrina. An estimated 61,386 dwellings (owner-occupied or rental) suffered major damage or were destroyed, and another 159,008 suffered lesser damage, according to inspections by FEMA as of February 12, 2006.[8] In its first application for CDBG funds, Mississippi Development Authority ("MDA") wrote, "The sheer number of homes damaged or destroyed is one reason **the Governor considers the replacement of housing as a number one priority** in rebuilding the Mississippi Gulf Coast."[9] (emphasis added) However, using conservative estimates, all of Mississippi's programs combined (home grants, LIHTC, small rental, long term workforce housing, and cottages) would rebuild, replace or repair about 45,505 of the total housing with major to severe damage, and none of the 151,012 with lesser damage.[10]

Mississippi has allocated almost $3 billion dollars, only 54 percent of its CDBG funds to programs for direct housing recovery.[11] In comparison, Louisiana has allocated over $10 billion or 85 percent of its CDBG disaster funds to housing programs.[12] Expenditures for LMI households in Mississippi are worse. A generous estimate of Mississippi's current overall benefit percentage for LMI households would be 21 percent of the $2,603 billion spent, compared to an estimated 53% in Louisiana.[13] Allocations for lower-income renters are even more dismal. Only $362 million of the almost $3 billion allocated to housing, or about 12%, is targeted to the two subsidized rental programs -- small rental and public housing programs.

Not surprisingly, given the impact of the storm on LMI households, extremely high demand for subsidized rentals continues to match very low supply. Therefore, MCJ urges state officials to reallocate substantial additional CDBG funds over and above current commitments to increase the supply of subsidized rental units. Otherwise, Mississippi's request for 5,000 additional housing choice vouchers will not solve the problem for working poor renters residing in coastal Mississippi.

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[8] Housing Unit Damage Report, February 12, 2006, FEMA ("FEMA February 2006 Report"). http://gnocdc.s3.amazonaws.com/reports/Katrina_Rita_Wilma_Damage_2_12_06___revised.pdf

[9] Mississippi Development Authority Homeowner Assistance Program Partial Action Plan, September 11, 1006, p. 3.

[10] See calculation attached as Exhibit "A"

[11] Mississippi Center for Justice Analysis of MDA CDBG Programs, attached as Exhibit "B."

[12] Comparison of Louisiana and Mississippi CDBG programs attached as Exhibit "C."

[13] MDA's Disaster Recovery Grant Report, 4th Quarter 2008 inaccurately shows an overall benefit percentage at 0.02 percent. http://www.msdisasterrecovery.com/reports/documents/QPRsDec2008.pdf

The evidence is clear that Mississippi's programs do not come close to meeting fully the needs of small rental, very-low-income rental, or homeowners who suffered serious wind damage from Hurricane Katrina.

- Phase I and II homeowner assistance grants will restore about 26,000 storm surge damaged houses, but ignore 7,302 households with major to severe wind damage, of which 2,156 were without insurance.[14]
- The Small Rental Assistance Program ("SRAP") is underfunded - only 6,300 small rental units were forecast to be built, leaving 7,500 unrepaired.[15] The SRAP gap likely will increase because the program now expects to produce as few as 4,800 units.
- As many as 1,494 GO Zone tax-credit funded developments in the the coastal counties will not be built due to the tax-credit market debacle, according to MCJ interviews with developers. Another 1,147 units are financed with CDBG and LIHTC, which reduces Mississippi's projection of 5,823 units to 3,182, well below what is required to make up for shortfalls in small rental housing.[16]
- Mississippi's $30 million gap financing is dramatically under-sized and the new Tax Credit Exchange Fund legislation does not allow exchange of GO Zone credits for cash, according to the U. S. Treasury.
- There currently are 693 fewer units directly owned by public housing authorities than immediately before Hurricane Katrina.

The prospects for financing these housing needs was made nearly impossible by HUD's approval of the diversion of $600 million which could have been used to meet affordable housing needs to a costly and non-hurricane-recovery related major expansion of the Port of Gulfport. It is necessary that HUD revisit the 2007 and 2008 approvals of this diversion. Secretary Jackson's rationale for this decision was that HUD had no discretion to question the State of Mississippi's decision to divert this money from housing needs. In fact, he testified before this Committee on March 11 that if he thought he had discretion to reject this proposal he would have done so. A careful analysis of the legislation and requirements of the CDBG program indicates that HUD's conclusion that it had little or no discretion to review the State's submitted proposals is erroneous both with respect to the requirement that the proposal certify that it meet the 50% LMI requirement and the non-waivable certification that the proposal will affirmatively further fair housing.[17] Without discretionary authority, there would be no oversight and no assurance that Congressional intent was being implemented or subverted. We respectfully believe Congress meant what it said -- that low and moderate income families would be at the front, not the back of the line for federal aid.

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[14] Table of wind-damaged houses in coastal counties attached as Exhibit "D"

[15] Exhibit "A". See also news account at footnote 31.

[16] Results of LIHTC Research attached as Exhibit "E"

[17] See discussion page 15.

Mississippi Center for Justice urges this subcommittee and HUD to:

- use all possible means to ensure that Mississippi cures the deficiencies and shortfalls in its housing programs outlined in this testimony;
- reverse the diversion of housing funds to finance the expansion of the State Port at Gulfport and require Mississippi to finish housing first.
- institute appropriate reforms to strengthen current and future emergency CDBG appropriations against excessive use of waivers of important federal requirements;
- increase public accountability and transparency in both policy development and implementation stages of disaster recovery programs funded with CDBG dollars;
- require greater federal uniformity in disaster recovery programs between states; and
- condition access to emergency CDBG funds offered to municipalities and counties upon their undertaking to affirmatively remove barriers to affordable housing, including public, subsidized, and transitional housing after natural disasters.

III. MISSISSIPPI'S CDBG HOUSING PROGRAMS

A. Disproportionate Impact Upon Poor and Minorities

Lower-income households faced difficulty finding affordable housing before Hurricane Katrina arrived. A 2008 report by the Rand Gulf States Policy Institute conservatively estimates that the pre-Katrina demand for affordable housing in the three coastal counties was close to 38,000 units, the supply was 25,000 units, and the loss of units from the Hurricane was 6,000 units.[18] These estimates, according to Rand, "almost certainly underestimate the scale of the affordability problem post-Katrina."[19] MCJ agrees that the Rand estimate substantially understates the actual losses of affordable housing in the area.

At the time Hurricane Katrina struck coastal Mississippi, the region was more than ten years into an economic transformation following the legalization of dockside gaming. However, industry growth did not necessarily translate into high-wage jobs, because service industry jobs such as hotel housekeepers, desk clerks, and casino dealers paid on average about $20,000 per year.[20] By 2000, between 30 and 40 percent of residents of coastal counties earned below 200%

[18] Kevin McCarthy and Mark Hanson, "Post-Katrina Recovery of the Housing Market Along the Mississippi Gulf Coast," Rand Gulf States Policy Institute, 2008 ("Rand 2008 Report"), pp. 19, 30-31. http://www.rand.org/pubs/technical_reports/TR511/

[19] Id., p. 61. Rand's data is based upon correlations and extrapolations of several sets of damage and demographic data at the census block level. ***Id.***, at 76-77. MCJ considers to be more reliable the data gathered by direct inspection of housing units, such as the FEMA and HUD reports cited elsewhere in this testimony. MCJ considers the Rand data to underestimate the actual damage done to the Mississippi coast housing stock.

[20] Governor's Commission Report, p. 50; see also Occupational Wages, Mississippi Employment Security Commission, Biloxi-Gulfport MSA, 2008.

of the federal poverty limit.[21] Besides wages, home equity is the most common source of household wealth for most Americans. Whether residents have assets and insurance heavily influences their hurricane rebuilding and recovery. Rates of homeownership and home values in the Biloxi and Gulfport region lagged national rates, according to the Governor's Commission report, and so "many of the Gulf Region's residents possessed limited assets on the eve of the storm."

The economic picture was disproportionately worse for African American residents in coastal Mississippi, who were substantially more likely to have lower homeownership and wage-earning rates and higher poverty rates.[22] On average, median incomes for African Americans in coastal counties are between $9,000 to $15,000 below median incomes for whites.[23] While segregation nationally has generally decreased between 1990 and 2000, the Biloxi-Gulfport-Pascagoula area was among only 19 out of 291 metropolitan areas with increasing racial segregation.[24] Given the correlation between lower-income, assets and race, one may safely infer that African Americans on the Mississippi coast faced greater difficulty rebuilding and recovering from Hurricane Katrina, and were especially burdened by policies and programs that failed to address lower-income needs.

Hurricane Katrina had a "particularly devastating impact on low-wealth residents who lacked an economic safety net," and so the Governor's Commission recommended, "Investments in housing strategies that target low-wealth resdents will stimulate asset development, and the Gulf will emerge as a stronger, more equitable region."[25] Mississippi did not take this recommendation to heart.

B. Programs Left Out, Under-Resourced, or Delayed Relief to LMI Households

Generally speaking, Mississippi's programs for homeowners were more quickly proposed, better funded, and and resulted in earlier payments than its programs to restore affordable rental housing. Programs targeting lower-income homeowners were more slowly proposed, less generous, and slower to close. Since lower-income residents were more likely to be renters,

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[21] "Increasing the Return: Investing in Mississippi's Working Families," Mississippi Economic Policy Institute, p. 6.

[22] 2000 Census data collected in "Recovering States? - The Gulf Coast Six Months After Katrina," Oxfam America Briefing Paper, February, 2006, p. 8; Marianne Hill,"The Economic Status of African Americans in Mississippi," Center for Policy Research and Planning, February, 2008, p. 2.

[23] "A Portrait of Mississippi," Mississippi Human Development Report, American Human Development Project, 2009, p. 20.

[24] "Racial Segregation in the 2000 Census-Promising News," Brookings Institution Center on Urban and Metropolitan Policy, April, 2001, p. 9.

[25] Governor's Commission Report, p. 51

Mississippi's rental program underfunding and delays have adversely affected their ability to find permanent replacement rental housing.

Phase I Homeowners' Assistance - Mississippi's first, largest, and most generous homeowner assistance program, known as Phase I, was approved in September, 2006. It provided up to $150,000 in compensation to insured homeowners located above the FEMA flood plain, who were damaged by Katrina's tidal surge. This program was originally allocated $3.2 billion, representing over half the total disaster recovery funds appropriated by Congress.[26] HUD granted Mississippi's request for a waiver of the 50 percent LMI waiver on the justification that it anticipated that Mississippi would come close to meeting the target. In fact, Phase I fell far short of the mark. Over 73 percent of applicants were wealthier residents and only 27 percent of applicants were LMI residents. Mississippi awarded $396 million or 28 percent of $1.394 billion to LMI households. The State substantially completed this program in December, 2008. Even after reductions to fund other programs, Phase I is larger than all the remaining CDBG housing programs added together. Phase I is the only program where the number of awards substantially matched the applicable category of housing units damaged according to FEMA's estimates. However, Phase I refused to cover wind damage, which meant that over 7,300 coastal households with major to severe wind damage were left out of the program.

Phase II Homeowners' Assistance - The second homeowner's assistance plan, known as Phase II was proposed after intense pressure and criticism over Phase I.[27] This program originally proposed to pay no more than $50,000 in compensation to homeowners earning up to 120% of AMI who experienced surge damage, regardless of insurance or location in or out of the flood plain. After extensive pressure from housing advocates, Phase II was modified to increase compensation up to $100,000 and eliminate any penalty for uninsured homeowners with special needs (elderly, disabled, or with earnings less than 60 percent of AMI). Ultimately, $473 million or 84 percent out of the $565 million total was awarded to LMI families. This program complied with the 50 percent LMI benefit requirement. Phase II was approved in December, 2006.

Public Housing - Mississippi proposed a $105 million dollar Public Housing program to cover uninsured losses to over 2,500 units of housing owned by six public housing authorities. This program complied with the LMI benefit requirement and was approved on August 31, 2006. However, the rate of expenditure on this program has been extremely slow, with only $18 million in grants awarded by the end of 2008. The lengthy delay in implementing this program has burdened the area's most vulnerable residents, extremely low income persons. In addition, the program did not increase public housing capacity to absorb pre-Katrina demand for extremely low-income housing. At the beginning of 2005, coastal public housing authorities had over

[26] Diversions from this fund are described in text accompanying footnotes 36-39.

[27] Mississippi received public comment on Phase I for a nine-day period, and coastal residents sent in over 1,756 comments and objections, the majority of which protested the LMI waiver and the eligibility restrictions. See Mississippi Homeowner Assistance Program Final Plan, p. 18. September 11, 2006.

3,500 households on waiting lists, nearly all of which earned less than 30 percent of AMI.[28] The Public Housing program supported the right of public housing tenants to return to units that have been rehabilitated. Current estimates indicate that 693 fewer public housing authority-owned units are presently available compared to before Katrina. Some PHAs have aggressively divested themselves of properties and shifted to tenant voucher based models that pressure returning tenants into relocating away from their original community. An estimated 1,147 units have been repaired or built using a combination of tax credits and CDBG funds.

Small Rental Assistance -The Small Rental Assistance Program was originally proposed in February, 2007, more than eighteen months after Katrina. The SRAP offered forgivable loans to owners of small rental properties in the coastal counties in return for agreeing to rent to tenants earning up to 120 percent of AMI for a period of five years. The original program was $131.5 million and was increased in April, 2007 to $262.5 million. The program complied with the 50 percent LMI benefit requirement. However, like the Public Housing program, SRAP has been extremely slow to spend funds and produce rental housing. As of the end of 2008, SRAP had spent only $12 million on SRAP projects and forecast production of only 4,800 units, 2,700 fewer than originally projected. However, the demand to participate in this program remains high, as shown by applications for 11,000 units in the final round. This program is fundamentally under-funded and poorly matched to serve the recovery of small landlords.

Workforce Housing - The Long Term Workforce Housing Program (LTWF) was proposed in June, 2007. This program began with $150 million and was increased to $350 million in January, 2008. This program offered loans to develop affordable rental or homeowner housing opportunities for coastal residents in the workforce. This program is not restricted to persons who had actually received hurricane damage to their residence; out-of-state workers who moved to coastal Mississippi could apply for benefits. The program was developed through rounds of requests for proposals. Mississippi originally forecast spectacular benefits from this program, between 11,000 and 12,500 units, but as the activities have progressed, it has become clear that far fewer housing units will be developed or purchased through LTWF programs. Under current rounds funded with $250 million, LTWF grantees propose to provide support for a total of 6,800-6,900 units.[29] One of the largest programs, $40 million awarded to Gulf Coast Renaissance Corporation for employer assisted housing has scaled back its forecast of 2,000 units to less than 700.[30]

Subsidized Apartments - Mississippi maintains that it need not spend as much on its CDBG rental housing programs because the GO Zone Low Income Housing Tax Credit

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[28] MCJ tabulation of PHA annual report data to HUD from Region VIII, Biloxi, Long Beach, Bay St. Louis and Waveland Public Housing Authorities. Exhibit "F".

[29] This calculation excludes foreclosure prevention and design assistance, neither of which represent units produced but services provided to eligible program beneficiaries. This calculation also adjusts the Gulf Coast Renaissance estimate to reflect current participation. See calculation attached as Exhibit "G."

[30] Anita Lee, "Katrina Housing Programs Updated." Sun Herald, May 14, 2009.

(LIHTC) program will produce a surplus of subsidized and public housing rental units. However, the LIHTC allocations have not translated into the number of rental units forecast by the State. About 2496 units will be open as of Katrina's fourth anniversary while another 1494 are stalled and unlikely to be constructed. Mississippi's prior reports have double counted at least 1,147 units financed under both the Public Housing and LIHTC programs.[31] Deep demand for rentals affordable at no more 60 percent of AMI is confirmed by unusually high occupancy rates and rapid absorption of LIHTC units completed in 2008,[32] and continues to hold true in 2009. The failure of 1,494 units of LIHTC apartments to close is explained by increased construction, insurance, and land costs, the collapse of demand for tax credits in the wake of the financial debacles of Fannie Mae, major banks, and insurers, and pervasive NIMBYism in local jurisdictions.

C. Human Consequences

About 1900 households like James Johnson remain in temporary FEMA housing programs in coastal Mississippi, which expired on May 1, 2009. Notices to vacate, termination of utilities, and physical removal of tenants and their possessions are taking place now. Another 2000 households occupy Mississippi Cottages, a federally-funded pilot program to devise a sturdier, healthier, and more humane alternative to the FEMA cottage. This program is due to expire on May 31, 2009. Mississippi forecasts that about 1,500 units will be permanently placed using $20 million from CDBG LTWF housing.[33] MCJ welcomes this initiative and has aggressively litigated to set aside illegal local zoning restrictions.[34] However, the supply of cottages is too small and the financial and local zoning hurdles remain difficult,[35] casting doubt on the ability of this new program to stave off imminent homelessness. In addition to those in transitional housing, thousands of households have sought financial assistance for housing repair and construction pending from the four Housing Resource Centers (HRCs) in coastal Mississippi. For a year or more, case managers and the Gulf Coast Business Council have recommended that Mississippi allocate substantial resources to the HRCs. This month, Mississippi announced it would provide $15 million to finance this need, but this amount is dramatically below what would be required.

In summary, Mississippi's CDBG and LIHTC financed housing programs have delivered more relief more quickly to wealthier homeowners and produced less benefit more slowly for lower income homeowners and renters. Thousands of wind-damaged homeowners have been

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[31] See Exhibit "E."

[32] Mississippi Gulf Coast Apartment Survey, W. S. Loper and Associates, April 2008, p. 14.

[33] See footnote 30.

[34] ***Gambrell v. City of Waveland Board of Aldermen***, No. 09-0089 (Circuit Court, Hancock County)

[35] Group site developments of Mississippi cottages have been blocked by local zoning decisions. See ***Habitat for Humanity Gulf Coast v. Jackson County Board of Supervisors***, No 2008-00542 (Circuit Court, Jackson County)

categorically excluded. Significant unmet needs still remain that require Mississippi to reallocate substantial CDBG resources back to housing.

D. Housing Resources Diverted to Economic Development- and Back Again

Mississippi has followed a consistent practice of diverting CDBG funds initially allocated to housing recovery programs to non-housing programs through a series of partial action plans. In doing so, Mississippi thwarted for three and a half years any public evaluation of Mississippi's overall priorities. The following demonstrates this pattern:

- In August, 2007, the State requested (and HUD approved) diverting $150 million from the homeowner assistance Phase I program to the economic development program, bringing the total amount for economic development to $650 million.[36]

- In September, 2007 the State proposed (and HUD approved) diverting $600 million from the Phase I housing assistance program to expand the State Port at Gulfport.[37]

- In April 2008, the State requested (and HUD approved) diverting $241 million from one of few housing programs targeted to assist hurricane-damaged LMI homeowners to a workforce housing program for individuals who were not required to have suffered hurricane-related housing damage.[38]

- In July, 2008 the State requested (and HUD approved) the diversion of $200 million from homeowners' assistance programs,to a new Hancock County Ground Zero program that was all for non-housing purposes -- primarily economic development and community amenities, such as a new marina.[39]

Recently Mississippi, for the first time, was forced to reallocate $181 million in economic development funds back into homeowners' assistance programs to cover shortfalls in grant awards. While this program ensured the State kept pre-existing commitments, it did nothing to solve other unmet housing needs. Nevertheless, this sets a precedent for Mississippi to make other reallocations to fund the needs identified in this testimony. Earlier this year, Governor Barbour warned coast businessmen and local officials to start spending the economic development and community revitalization money or risk having it taken back.[40] MCJ

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[36] Mississippi Development Authority Economic Development Program, Amendment 4, Modification 1, June 18, 2007 p. 2.

[37] Mississippi Development Authority Port of Gulfport Restoration Program, Amendment 5, September 7, 2007.

[38] Mississippi Development Authority Long-Term Workforce Housing Program, June 14, 2007.

[39] Mississippi Development Authority Hancock County Long Term Recovery Program, Amendment 7, June 9, 2008.

[40] Melissa Scallan, "Mississippi Governor Wants $2.8 billion in Katrina aid spent," Sun Herald, March 5, 2009.

encourages the State to critically re-evaluate its program priorities and reallocate funds in stalled economic development programs to housing.

E. Mississippi's diversion of $600 million to the expansion of the State Port at Gulfport aggravates the State's affordable housing needs.

1. Funds Diverted from "More Pressing Needs"

On January 25, 2008, Mississippi received approval from HUD Secretary Alphonso Jackson for a controversial proposal to divert $600 million in housing funds into a vast expansion of the State Port at Gulfport.[41] HUD Secretary Alphonso Jackson took the unusual step of personally writing Governor Barbour about the approval to explain that he had "little discretion" in the matter, and to voice concerns that "this expansion does indeed divert emergency federal funding from other, more pressing recovery needs, most notably affordable housing."[42]

In testimony before the House Financial Services Committee on March 11, 2008, Secretary Jackson explained his position, stating "I don't think that everything has been provided to low and moderate income people that should be provided for housing or infrastructure, ... but had I had my druthers, I probably would have said, 'Sir, I don't think we should be using this money and I would not approve it, but I didn't have that kind of authority.'"[43] A few weeks, later, on March 11, 2008, Secretary Jackson was even more emphatic, telling the House Committee on Financial Services that, "If I had the authority or the flexibility, I probably would have said no" to the Port Restoration Program proposal. Congressman Frank, the Chairman of the House Appropriations Committee that oversees HUD appropriations, agreed: "We want to make it very clear that this [Port Project] is not what CDBG was mean to do, and we don't want to set the precedent that this is an appropriate use of Community Development Block Grant funds." Following oversight hearings, twelve Congressman expressed their disapproval of the Port project in a letter to the Chairman of the House Appropriations Committee, stating that "this transfer is unreasonable in light of the fact that the State has not met all of its umet housing needs."

2. Expansion, Not Restoration

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[41] Mike Stuckey, "Feds OK Mississippi's Katrina Grant Diversion," January 25, 2008, http://today.msnbc.msn.com/id/22805282/

[42] Letter from HUD Secretary Alphonso Jackson to Mississippi Governor Haley Barbour, January 25, 2008, attached as Exhibit "H."

[43] House Financial Services Committee, Oversight Hearing of the Department of Housing and Urban Development, March 11, 2008, examination by Rep. Capuano. http://www.house.gov/apps/list/hearing/financialsvcs_dem/hr031108.shtml

The planned expansion, which was conceived two years before Hurricane Katrina,[44] would be the single largest expenditure of taxpayer funds on any state enterprise in the history of Mississippi. The amount is more than ten times that necessary to pay for hurricane related damages[45] – which are already largely covered by insurance and other sources.[46] The $600 million does not buy mere channel improvements. The original proposal would have created a controversial new land form in the Mississippi Sound, an inland terminal and causeway that would import traffic, pollution, and hazards to North Gulfport, an African American neighborhood, and finally it would have opened up 60 waterfront acres in the center of the port for a luxury hotel, condominium and casino development to be known as the "Village at Gulfport."[47] The Port has $108 million in insurance,[48] up to $54 million in FEMA funds pending insurance,[49] and was sitting on $82 million in insurance proceeds and other unencumbered cash,[50] far more than adequate to cover the estimated $50 million in damages to a port with an asset value of $127 million at the time Hurricane Katrina struck.[51]

In September of 2008, the State Port released a revised plan[52] that withdrew the inland terminal in response to environmental justice objections from North Gulfport. However, the revised plan did not result in any surplus; instead, the price tag rose above the available CDBG funds. At this point, Mississippi appears bent on tapping even more federal dollars to realize this extraordinary plan, including having the port designated as a Strategic Port. MCJ encourages Mississippi to look to other federal funding sources to replace all or part of the improperly diverted CDBG funds.

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[44] JWD Group, Mississippi State Port Authority at Gulfport, Master Plan Update, 2003. This report runs to 123 pages, with appendices and is available upon request from the witness.

[45] The State Port at Gulfport's asset value prior to Hurricane Katrina was $127,573,778, and its damage assessment from the storm was $50,556,175. Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) Report #487, "The Impact of Hurricane Katrina on Mississippi's Commercial Public Ports and Opportunities for Expansion of the Ports, June 20, 2006, p. 23.

[46] Janet Nodar, "Cloudy Forecast-Skies Still Not Clear Over Gulfport," Gulf Shipper, July 7, 2007, (reporting the port was insured for $108 million, including business interruption, received almost $60 million so far, settlement still under way); FEMA July 2007 Summary of PA Funding and Project Worksheet Data, http://www.fema.gov/pdf/media/2007/ms_global_report.pdf

[47] DMJM Harris, Gulfport Master Plan Update 2007, Mississippi State Port Authority, pp. 30-37. This report runs to 134 pages and is available upon request from the witness.

[48] Janet Nodar, "Cloudy Forecast," Gulf Shipper, July 9, 2007.

[49] FEMA Public Assistance Global Report, July, 2007, p. 7. http://www.fema.gov/pdf/media/2007/ms_global_report.pdf

[50] Recap of State Port at Gulfport's Budget Request for Fiscal Year Ending June 30, 2009, attached as Exhibit "I."

[51] See footnote 49.

[52] See http://portofthefuture.com .

3. State Diverted Housing Funds After Congress Turned Down Port

On March 7, 2006, three months after Congress had voted to give Mississippi $5.05 billion in emergency CDBG funds, Governor Barbour returned to Congress and testified in a hearing on Gulf Coast Hurricane Recovery before the Senate Appropriations committee:

> **There were three projects for which we did not request funding last fall**, simply because they weren't ready and our policy is we're not going ask you to give us money for something what we're not prepared to do, and show you exactly how we're going to do it and how we're going to be accountable for it. Since then two of those projects have further developed and I ask Congress and the committee to consider them. Both are integral transportation projects dealing with hazard mitigation, safety, and economic and community development. **The first is for the rebuilding and the redevelopment of the Port of Gulfport,** the entire infrastructure of which was devastated. The second is to move a railroad from right on the coast to move it farther inland.[53] (emphasis added)

Mississippi's efforts to win additional funds failed after budget-conscious lawmakers derided the relocation of the rail line as wasteful.[54] In July, 2006, HUD awarded nearly all of the second disaster recovery allocation to Louisiana, and left Mississippi without funds for the reconstruction of the port.[55] Two years after Katrina, Governor Barbour proposed to redirect $600 million of housing recovery funds into the expansion of the State Port at Gulfport.

In response to public outcry over the diversion of housing funds to expansion of the State Port at Gulfport, Governor Haley Barbour was interviewed in February, 2008, at the Biloxi Sun Herald:

> We immediately went to work on a Mississippi proposal which we gave to Congress on November 1, 2005. And in that proposal was $600 million for the port, $500 million for the port itself and another $100 million for channel improvements. **The Port of Gulfport has been in our plan from the very, very beginning.**[56] (emphasis added)

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[53] Senate Appropriations Committee hearing, March 7, 2006, Gulf Coast Hurricane Recovery, C-SPAN link, http://www.c-spanarchives.org/library/index.php?main_page=product_video_info&products_id=191498-1&highlight=recovery

[54] Jonathan Weisman, "Mississippi Senators' Rail Plan Challenged," Washington Post, April 26, 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/04/17/AR2006041701551.html

[55] Ana Radelat, "Mississippi Still Without Funds to Fix Port," Jackson, Mississippi, Clarion Ledger, A-1, July 12, 2006.

[56] Governor Barbour at the Sun Herald, February 20, 2008, http://videos.sunherald.com/vmix_hosted_apps/p/media?id=1729323

This assertion is contradicted by Governor Barbour's own testimony before the Senate Appropriations Committee, and by HUD Secretary Jackson's letter stating that this does indeed represent a diversion of housing funds.

4. Legal Deficiencies

Mississippi's submission fails to comply with the Disaster CDBG statute and regulations as follows:

- The program did not provide a "limited clientele benefit," within the meaning of 24 C.F.R. §570.483(b)(2). Nor did it provide an "area benefit activity," within the meaning of 24 C.F.R. 24 C.F.R. §570.483(b)(1) – the area in which it was located was not populated by a majority of LMI persons. The current configuration abandoned earlier proposals for condominiums, and so it would not qualify as a "housing activity" for the benefit of LMI persons, within the meaning of 24 C.F.R. §570.483(b)(3). And finally, the Port Restoration Program couldn't qualify as a "job creation or retention activity," within the meaning of 24 C.F.R. §570.483(b)(4), because only about 10% of the Port's jobs had historically been held by LMI persons, and there was nothing in the Port Restoration Program proposal to indicate that the "restored" Port could or would drastically change that proportion.

- Mississippi did not certify, but only projected, that the Port project would create the requisite 50% LMI jobs. If Mississippi spends all $600 million of the funds and fails to generate the necessary jobs to comply, the horse will be out of the barn.

- The Port Restoration Program could not qualify for a waiver of the LMI benefit requirement because Mississippi could not say that it currently had a "compelling need" to spend $600 million of federal taxpayer money – the only significant, unallocated portion of its $5.5 billion CDBG grant – on port expansion (not hurricane damage repair) for which the state had been in search of funding for at least two years before Hurricane Katrina loomed over the horizon. Consequently, Mississippi did not even ask HUD for a waiver of the LMI benefit requirement. And, other than stating – without any supporting evidence – that "MDA will qualify this program under the low to moderate national objective," the Port Restoration proposal did nothing to certify the Program's compliance with the LMI benefit requirement, or to excuse its non-compliance.

- Mississippi did not certify compliance with federal fair housing law in connection with this proposal. Also, it has not completed an Analysis of Impediments required by such a certification even though it promised to do in its first submission to HUD in March 2006.

Mississippi's decision to redirect $600 million from housing to a massive expansion of the State Port at Gulfport removes any hope for thousands of low-income homeowners and renters displaced by Hurricane Katrina of return to safe and affordable housing. Between 6,300 and 7,500 households who occupied small rental sites that suffered major to severe damage from Katrina no longer may expect that their landlord will repair or rebuild the residences they occupied. Very-low-income households whose market rate or voucher-subsidized rental housing had major to severe damage from Katrina will face an even longer wait for the return of deeply affordable rental housing without CDBG support for LIHTC-financed apartment complexes. Lower-income wind-damaged homeowners, who might otherwise benefit from an extension of the Homeowners Assistance Grant Phase II, will have to seek charitable assistance to repair or rebuild their dwellings.

IV. CDBG AS MEANS TO SUPPORT DISASTER RECOVERY

Mississippi's use of CDBG funds for disaster recovery raises the question whether or not CDBG is a suitable vehicle to support disaster recovery. The policies and structure of the CDBG program generally accord with what is needed following a national catastrophe. But disasters pose special challenges for CDBG-based appropriations, including appropriations formulas, consistency and equity in state-administered programs, public input, and checks and balances.

The Housing and Community Development Act of 1974 established the CDBG program. The CDBG program was designed to provide greater local influence, discretion, and control than other federal programs such as Urban Development Action Grants, in which federal planners would decide where and how funds would be spent. In the CDBG program,state and local governments identify needs, solicit ideas for projects and plans from citizens and local organizations to meet those needs, and then submit a consolidated plan to HUD for approval. The uses of CDBG funds must be consistent with one of three national priorities:

1. activities that benefit low- and moderate-income persons
2. the prevention or elimination of slums or blight, or to
3. address an urgent threat to health or safety.

As CDBG programs got under way, complaints arose that CDBG funds in Southern cities were spent in affluent neighborhoods. Congress expressed a policy that the majority of CDBG funds, 70 percent, should be used to further the first priority, benefits to persons of low and moderate income. In subsequent authorizations, Congress instituted allocation formulas to strengthen controls on how money was spent and to better target communities with different types of problems.

Requiring that the majority of disaster CDBG funds be used to assist persons of low and moderate income matches well with the disproportionately greater burden of recovery for low-wealth communities. Using funds to prevent or eliminate slums or blight also addresses the acceleration of those trends after a disaster in poorer communities with older construction, less property insurance, and greater deferred maintenance.. Finally, the goal to address an urgent threat to health or safety, on its face, corresponds to society's needs following a catastrophe.

The 2005 disaster CDBG appropriations followed no discernible formula. Instead, the first disaster CDBG allocation contained an arbitrary condition that no state shall receive more than 56% of the overall $11 billion allocated. This was widely recognized as an inequitable division of disaster recovery funds for the most heavily damaged state of Louisiana. It took three subsequent appropriations to obtain a roughly adequate funding for Louisiana. Congress should adapt one or more allocation formulas similar to those used in conventional CDBG appropriations to achieve greater equity for all American citizens affected by a national catastrophe.

In both regular and disaster CDBG programs, serious questions arise whether the scope of allowed activities under CDBG is too broad, making it difficult to measure the effectiveness of the expenditures in achieving the goals.

To grant state authorities significant discretion and control over disaster CDBG funds may or may not have merit, given some of the differences in the way Hurricanes Katrina and Rita affected the adjacent states, and the priorities chosen by the states. Fundamentally, however, there are more similarities than differences in need and solutions. Common guidelines would eliminate inconsistencies and inequity from separately-developed state plans. Similarly situated citizens, regardless of which state they live in, should receive a generally equivalent level of relief from a federal recovery from a national disaster funded from the US Treasury. The disaster CDBG program should be revisited to assess whether certain overall standards should be adopted, such as balances between housing recovery and economic development; uniformity in award caps and eligibility requirements in compensation programs; and parallel and simultaneous efforts to address the needs of renters as well as homeowners.

In regular CDBG programs, public input and influence over use of the funds occurs through the Consolidated Plan process. After a natural disaster, the opportunity for meaningful community input is nil. State legislatures cannot be counted upon to exercise replacement oversight or accountability. In Louisiana, the state legislature and Governor Blanco debated and developed a comprehensive plan for use of the CDBG funds. In Mississippi, there was no such debate. The Governor's office chose not to develop an overall allocation, but instead rolled out a series of partial action plans over the course of 3 years. Whatever may be the merits of this approach, it deprived the affected population and the Mississippi legislature, a co-equal branch of government, the opportunity to influence the most fundamental and far-reaching issue of their lives: the overall balance of priorities between housing, economic development and infrastructure . When the amount in question is equivalent to Mississippi's annual budget, fundamental fairness requires meaningful opportunity to influence this subject. In the first partial action plan, only nine days were allowed for the public to comment on a homeowners' assistance program costing $3.2 billion dollars, almost sixty percent of Mississippi's total allocation. Regardless of whether legislatures should be permitted to review and approve a proposed disaster CDBG plan, the law should require state officials to release a broad outline of overall uses of CDBG disaster funds for public comment early in the recovery process.

V. RECOMMENDATIONS

A. Regarding Mississippi's Use of CDBG funds

1. Mississippi should critically re-evaluate all housing and economic development programs and priorities and redirect CDBG funds to the following housing needs:
   a. increase the size of the Small Rental Assistance Program, given the dramatic recent oversubscription of the final round of this program.
   b. increase piggy-back support for LIHTC-financed properties.
   c. provide compensation for lower-income wind-damaged homeowners in the three coastal counties, using the federal requirement to serve areas of concentrated damage as justification for a geographical limitation.
   d. provide substantial increased support to Housing Resource Centers to fund their backlog of unmet needs.
   e. subsidize the purchase, permanent placement, and escrow costs of Mississippi cottages on an income-need basis.
2. Mississippi should seek alternative financing for the State Port at Gulfport, including federal stimulus money, programs for Strategic Ports, to replace the improperly diverted CDBG funds.

B. Regarding future disaster CDBG appropriations

1. Eliminate the on-demand waiver of the low- and moderate-income benefit requirement from disaster appropriations
2. Adapt an allocation formula to determine disaster CDBG appropriations similar to those used for conventional CDBG appropriations to ensure greater fairness between states.
3. More carefully define the scope of allowable activities under CDBG programs to better measure effectiveness, especially as to claims of job-creation and LMI benefit.
4. Develop common guidelines on uses of CDBG disaster funds to eliminate inconsistencies and inequities from separately-developed state plans including
   a. overall allocations between housing, infrastructure, and economic development
   b. greater uniformity in program design and eligibility for compensation programs
   c. requirements to proceed simultaneously with renter and homeowner housing recovery programs.
   d. early disclosure and public comment of overall uses of disaster CDBG funds.
   e. requirement of an overall allocation plan, based upon public or legislative input, as a predicate for approval of any partial action plan.

5. Require local governments to cooperate in housing recovery programs as a condition of receiving federal disaster assistance, as a means to discourage NIMBYism.

Thank you for your consideration of this testimony and recommendations.

Very Truly Yours,

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WRITTEN STATEMENT OF HALEY BARBOUR, GOVERNOR OF THE STATE OF MISSISSIPPI

BEFORE THE AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

MAY 20, 2009

Good morning. I'd like to thank the members of the Subcommittee for allowing me to tell you about the generally successful recovery that continues to occur in our great state. Thank you very much to the Chair and Ranking Member and distinguished members of the subcommittee for giving me the opportunity to speak with you today.

Nearly four years ago, Hurricane Katrina made landfall on the Mississippi Gulf Coast, obliterating everything in its path. The complete and utter destruction on this scale was unlike anything this country had ever seen, and we knew that recovery would be well beyond the capabilities of normal disaster recovery programs. The effort to rebuild communities devastated by this storm would require an unprecedented commitment from the federal government.

In November 2005, we submitted to Congress a comprehensive plan setting our federal assistance needed to fully recover from Hurricane Katrina. The plan outlined funding requests for housing, environmental restoration, economic development, transportation, education, health care, human services, agriculture, energy, workforce development, law enforcement, and historic preservation.

We originally sought funding from different federal agencies and programs, according to the area of need, including:

- A relief/mitigation program for homeowners that lived outside the floodplain from the FEMA Hazard Mitigation Grant Program
- Housing assistance from the HUD HOME Program and USDA Rural Development
- Water and wastewater infrastructure from the U.S. Army Corps of Engineers, EPA, and USDA
- Utility ratepayer relief from the HUD Community Development Block Grant Program
- Economic development from the Department of Commerce and HUD
- Restoration of the Port of Gulfport from the Department of Transportation

Congress, led by Senator Thad Cochran, then chairman of the Senate Appropriations Committee, and Senator Mary Landrieu, chair of this subcommittee, and others, determined that the Community Development Block Grant Program (CDBG) was the appropriate funding mechanism for most of these funding needs, recognizing the program's versatility in meeting many different categories of need. It was thought that combining several recovery programs and projects into the CDBG program would make program processes more efficient, give states maximum flexibility, and expedite the completion of recovery goals. Our funding requests for housing, economic development, infrastructure, port restoration, and utility ratepayer relief were lumped into a single allocation of CDBG funding.

Along with the ability to create programs to meet the diverse needs arising after Katrina, the state sought added flexibility under CDBG. The program could serve as an effective vehicle to deliver disaster relief, but only with sufficient latitude to insure recovery programs were not hampered by normal CDBG regulations and restrictions.

The CDBG program's normal mission is to serve the housing and economic development needs of low and moderate-income individuals. However, the state needed to use the CDBG program to carry out a comprehensive recovery, encompassing the needs not only of lower-income citizens, but also designed to rebuild and revitalize devastated communities as a whole.

The Fiscal Year 2006 Department of Defense Appropriations Act (H.R. 2863) included $29 billion for specific needs arising from Hurricane Katrina that were not covered by the Stafford Act. The U.S. Department of Housing and Urban Development (HUD) allocated $5.058 billion to Mississippi for disaster relief and long-term recovery related to the consequences of Hurricane Katrina.

The 2006 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, appropriated $5.2 billion in CDBG funds for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure directly related to the consequences of the covered disasters. HUD allocated $423 million of these funds to Mississippi of which a minimum of $81.78 million will be used for repair, rehabilitation and reconstruction of the affordable rental housing stock in the impacted areas.

Upon request from the states, both appropriations granted HUD broad authority, indeed, direction, to waive CDBG requirements and restrictions, except those related to fair housing, nondiscrimination, labor standards, and the environment. The statutes explicitly state that HUD "shall waive", indicating that states should be given ultimate flexibility in determining the uses of their CDBG funds.

With the two appropriations, Mississippi has received $5.481 billion in CDBG funding. The Mississippi Development Authority (MDA), which administers the state's normal CDBG program, administers Mississippi's share of these funds.

A COMPREHENSIVE RECOVERY

Working with our federal partners, local governments and the private sector, the State of Mississippi is pursuing a comprehensive approach using CDBG and other resources to rebuild the Mississippi Gulf Coast. Following the guidance and recommendations of the Governor's Commission on Recovery, Rebuilding and Renewal, we have implemented a wide-ranging strategy that addresses all facets of recovery, with priority to rebuilding affordable housing, restoring public infrastructure and replacing and creating jobs.

The ultimate goal in our CDBG plan is rebuilding communities. We are not focusing on any single area of recovery, but are working to rebuild and renew all the aspects that make a community. Cities, infrastructure and jobs must be rebuilt or restored in order for the Coast to fully recover. Therefore, the state's plan addresses these needs through economic development programs, community revitalization, tourism restoration and water/wastewater infrastructure restoration, as well as keeping a continued focus on providing housing assistance for all residents of the Mississippi Gulf Coast.

Housing has always been, and remains to be, our top priority. My administration's unwavering commitment to housing is directly related to my vision of a Gulf Coast bigger and better than ever. Only by enhancing housing opportunities for all coastal residents, including low and moderate income homeowners and renters, will the workforce and economic engines of the Gulf Coast reach their full potential. In fact, the focus on providing housing assistance is evidenced by the more than $3.9 billion of the $5.4 billion - or about 71 percent - in CDBG funding directed for housing or housing-related programs.

The state is currently implementing programs that not only fully restore lost housing stock, but also produce more affordable housing units than existed prior to the storm. The programs not only replace housing, but rebuild homes that are better, stronger, safer, and, most importantly, more affordable for coastal residents. When current programs are completed, more affordable housing will be available for both homeowners and renters than existed before Katrina.

The state is closely monitoring the housing environment to maximize the effectiveness of our housing programs. Last year, the state entered into a contract for a third-party, independent housing study that examined the housing stock on the Mississippi Gulf Coast. The objective of the study was to better inform state program policy decisions by determining what housing had been rebuilt, what rebuilding is in process and what housing needs remain. A report from the housing study was issued earlier this year, and the housing data is being continually updated so that the state has the most accurate information on which to base funding and policy decisions.

The non-housing aspect of our CDBG recovery plan places a long-term focus on economic development and infrastructure. Through rebuilding critical public buildings, building infrastructure to accommodate growing populations, and creating job-producing engines, these programs provide the foundation upon which devastated communities are achieving a long-lasting recovery.

The implementation of these programs is also helping to mitigate economic woes during these troubling financial times. I've often said that these programs, with their focus on construction of lost infrastructure, are much like the federal stimulus package in their ability to create jobs and generate revenue for local communities. Remaining CDBG construction-focused projects are, in essence, a job-producing stimulus package for the Mississippi Gulf Coast.

This comprehensive recovery strategy is being implemented with an unprecedented level of accountability and transparency. The HUD Office of Inspector General has performed audits on CDBG programs, and has praised the implementation of sound controls by MDA.

Mississippi is fully in the construction and implementation phase of recovery. In the immediate aftermath, searching for disaster victims and insuring security in the area was the first priority. The first phase, clean-up, and the second phase, planning, have been completed. Construction could not begin until the landscape was cleaned, and it took two years for all hurricane debris to be removed. The planning stage consisted of refining the best uses of recovery funding, and then working through the various details of each individual project. Project environmental impact assessments also had to be conducted before projects could proceed, and most of those have been completed as well.

All of the state's $5.4 billion in CDBG has been allocated, and currently all programs are being implemented or have already been completed. The centerpiece of our CDBG recovery plan, the Homeowner's Assistance Program, has delivered $1.8 billion in grants to more than 28,000 residents, and is now being closed down, with only 85 complex applications (out of a total of 31,000) still under review. All other programs are in full swing.

MISSISSIPPI'S FLEXIBLE CDBG APPROACH

Mississippi has designed its CDBG plan to be not only comprehensive in serving the needs of disaster-stricken communities, but also to be flexible in reacting to changing post-Katrina dynamics. We recognize that recovery is a constantly evolving process, and our plan must be nimble to meet changing needs.

The housing study commissioned last year is helping the state identify remaining housing needs. The study analyzed data from several different sources to determine what housing stock is currently online and what has been obligated but not yet built, through both private and public means.

According to the study, the supply of affordable owner-occupied and rental housing on the Mississippi Gulf Coast will be higher than pre-Katrina levels in mid-2011, once all CDBG-funded construction projects have been completed. Given high vacancy rates before Katrina, this will result in a slight oversupply of housing.

The housing study also indicates that post-Katrina housing is more expensive than what existed before the storm. Damage reports indicate that many of the severely damaged homes were aged and affordable unsubsidized housing stock, either as small rental units or as an owner-occupied single family home with no mortgage or insurance payment.

In place of this old, ultra-cheap housing stock is brand new housing that is considerably more expensive. More stringent building codes and higher insurance rates have added to this cost burden. Market rents have spiked since Katrina. Apartment surveys conducted in April 2008 indicate that the average monthly rent for a two-bedroom apartment had risen by 41 percent since Katrina. In addition, those poorer homeowners who, because their home was passed down to them, had no mortgage payment and no insurance must now rent and cannot afford to pay market rents.

This housing analysis clearly explains that the current housing problems are not a lack of housing supply, but rather a lack of housing affordability due to the increased costs of newly-constructed houses and apartments. Accordingly, the state has changed its remaining CDBG plan to confront this reality. We have shifted gears from a construction approach to an affordability approach by creating programs to make the existing and arriving housing supply less expensive.

The alternative temporary housing units known as Mississippi Cottages can be placed as permanent units. The temporary phase of this program is shutting down, and the state is exploring all avenues to keep the Cottages on the Coast as permanent housing. We have allocated CDBG funds to help Cottage residents pay for foundations so that they may remain as permanent dwellings.

The state has allocated CDBG funding to two mortgage assistance programs to help low and moderate-income families buy existing housing. The REACH and My Home, My Coast programs give potential homebuyers financial help through second mortgages so they can afford homes currently on the housing market. Research has shown that many houses are priced below $150,000.

An extremely vital piece to our housing recovery that remains to be funded is housing vouchers. The housing study indicated a need for as many as 5,000 units at deeper affordability levels.

Available rental supply is not the issue. According to the FEMA Rental Resources Division, more than 3,000 apartment units are vacant on the Coast today, and nearly 2,000 of those will accept a housing voucher. We also know that a heavy supply of rental housing is under construction and will come online soon, including 3,000 Low Income Housing Tax Credit units, 4,500 units through the CDBG Small Rental Program, 1,100 units through the CDBG Long Term Workforce Housing Program, and 600 Public Housing units.

To address the need for deeper affordability, I have requested 5,000 housing vouchers for the Mississippi Gulf Coast. An appropriation for additional vouchers for Katrina and Rita-impacted states is currently under consideration by Congress in the supplemental appropriations bill. I ask that you approve this funding to help those thousands of renters who have not been able to afford to pay increased rents after Hurricane Katrina and those that remain in FEMA travel trailers and Mississippi Cottages.

The current economic downturn is also affecting our recovery plan. Through GO Zone Tax Credits, the Low Income Housing Tax Credit program is incentivizing the construction of 4,000 subsidized rental units on the Mississippi Gulf Coast. However, due to tightening credit markets, many of these development deals have been unable to close.

Using CDBG, we created the Tax Credit Assistance Fund to help get these projects to completion. This fund will help support tax credit developments that are failing, allowing them the added financing needed to close and begin construction on this much needed subsidized rental housing.

CDBG AS A DISASTER RECOVERY PROGRAM

As I mentioned earlier in my testimony, what makes CDBG a workable tool for disaster recovery is its versatility. The ability to carry out different programs and meet different disaster needs makes CDBG a viable funding option for disaster-stricken states, but only with waivers and maintaining the maximum flexibility intended by Congress in the Fiscal Year 2006 Department of Defense Appropriations Act (H.R. 2863).

Even though the CDBG program is versatile, the added latitude of waivers is extremely necessary to use CDBG as a recovery program, especially for a disaster the magnitude of Hurricane Katrina. The explicit Congressional direction to HUD to grant waivers upon request by the states is essential. It is important to remember there is not a one-size-fits-all approach to disaster recovery. Different states have different issues, and it is paramount to allow the utmost flexibility.

Most waivers have been technical in nature, such as changing reporting and record-keeping requirements or changing regulations concerning program income. Some waivers have had a more substantive impact, allowing program activities that weren't normally eligible. Examples in Mississippi were waivers to permit payment into the state's windpool insurance program under the Ratepayer Mitigation program and to allow construction of government buildings under the Community Revitalization program.

The state also sought waivers related to the requirement that 50 percent of CDBG funds be used for low and moderate-income activities. As I mentioned before, we were committed to rebuilding whole communities, not just those areas with a high proportion of low and moderate-incomes. Because we designed our programs to serve entire communities, and most often to serve the entire Mississippi Gulf Coast, these programs naturally did not always meet CDBG low and moderate-income requirements.

We asked for waivers to the low and moderate-income requirements for five Coast-wide CDBG programs: Regional Water and Wastewater, Economic Development, Community Revitalization, Ratepayer and Windpool Mitigation, and Homeowner's Assistance Program. All of these programs assisted disaster victims and communities without regard to income, therefore not necessarily meeting the threshold to be considered a low and moderate-income program.

Earlier this year, HUD conducted the statutorily-required two-year reconsideration of all waivers. After analyzing our CDBG budget and its commitment to serving low and moderate-income individuals, HUD determined that three low-mod waivers were no longer needed. In other words, HUD determined that the other CDBG programs were serving low and moderate-income individuals at a high rate, and the waivers were not necessary for the state to stay above the 50 percent threshold.

I am proud of our CDBG commitment to designing programs that serve the most vulnerable individuals. However, the 50 percent low-mod requirement will often hamper a state's recovery efforts because it discourages the implementation of regional programs, since those programs will not qualify as low-mod activities. Infrastructure and community development programs that serve an entire community will often fail to meet the income restrictions to be considered a low-mod program. Therefore, states are less likely to pursue these programs when facing the overall 50 percent low and moderate-income requirement, although these programs are critical to a long-term, full recovery.

Other challenges exist when using CDBG for disaster recovery. Federal environmental regulations are the primary impediment to affordable housing recovery programs and deployment of recovery dollars as a whole.

Housing programs in particular were mired in federal environmental requirements. The CDBG environmental process requires the coordination of more than eight state and federal agencies and the approval of nine categories of regulations (lead based paint, archaeological, historical, farmland, threatened and endangered species, wetland, coastal zone, toxic landfill and airport zone). The time and resources necessary to comply with these regulations is exorbitant.

More than 1,000 applications for the Small Rental Program were tied up in the environmental review process for over ten months, despite the state's dedication of significant resources and streamlining the process. Although the rehabilitation and construction projects were occurring on sites where housing existed before Katrina and in existing neighborhoods, the environmental process was just as stringent as if the project was a greenfield development.

The federal environmental process should be waived or significantly streamlined. The HUD OIG has recognized the problems with the environmental process, and has stated that Mississippi fulfilled all necessary obligations and delays were coming from the federal perspective.

In addition, environmental requirements are not consistent across federal agencies. HUD does not recognize the environmental permitting of other federal agencies. For example, projects that have satisfied permitting requirements of the Federal Highway Administration and the U.S. Army Corps of Engineers require additional environmental regulatory hurdles under HUD's process.

This problem impacted the Community Revitalization Program, in which many projects received both CDBG and FEMA Public Assistance funding. Two separate environmental reviews must be completed for these projects, to satisfy separate HUD and FEMA requirements. The process should be modified or streamlined so that FEMA and HUD cooperate with environmental reviews so that only one is required.

The state has also faced challenges concerning duplication of benefits (DOB) restrictions. Under DOB rules, disaster victims who received a grant under the Homeowner Assistance Program or apply for CDBG mortgage assistance are not eligible to purchase housing built through CDBG programs. The CDBG subsidy used to build the housing is considered a DOB along with the other housing assistance.

The state maintains that the two forms of assistance (homebuyer assistance and home building incentives) are not for the same purpose, and therefore should not be considered as a DOB. A person receiving a homeowner grant or CDBG-supported mortgage should be allowed to buy a house anywhere on the Coast, regardless of whether the home was constructed using CDBG funds.

Another challenge in utilizing CDBG is HUD's increasing restrictions to make disaster recovery programs fit into normal CDBG regulations. Initially, CDBG regulations were loosened to serve the state's broad recovery goals. The further removed from the disaster, the higher the tendency to force programs in normal rules and regulations.

CONCLUSION

In closing, let me thank the members of this subcommittee for allowing me to speak to you today about Mississippi's recovery efforts using CDBG funding and the challenges we have faced. We remain extremely grateful for the latitude extended by Congress in our efforts to recover from the worst natural disaster this country has ever faced. And we will continue in our strong relationship with the federal government to see a revitalized Mississippi Gulf Coast that is bigger and better than ever.

Before I go, let me mention three extremely important recovery needs remaining for which Mississippi needs your help. One is the need for 5,000 housing vouchers that I have already outlined.

When I testified before this full committee just six months after Katrina, I stated that the first priority should be a survivable, interoperable communications system that would connect local, state, county and federal emergency services agencies during an emergency. The ability of responders to work together across agencies during emergencies of all types depends heavily on their ability to communicate.

After Katrina, all communications were shut off when the storm completely destroyed communications infrastructure. About the only way to send directions or receive emergency reports from any distance was through direct face-to-face contact.

Congress has twice reprogrammed $20 million from Mississippi's share of FEMA Hazard Mitigation Grant Program (HMGP) for survivable, interoperable communications, but more is needed to reach our interoperability goals. We have sought to use a portion of HMGP funds for an interoperable communication system, but FEMA has so far refused this request. This disagreement represents one of the state's biggest outstanding issues with FEMA. FEMA's failure to approve HMGP for survivable, interoperable communications remains a major impediment to the protection of lives from a natural disaster.

I ask you to reprogram a final $100 million from the $393 million to which Mississippi is entitled under the Stafford Act for the Hazard Mitigation Grant Program.

The other remaining need is for environmental restoration to our barrier islands. Hurricane Katrina exposed vulnerabilities of Mississippi and Louisiana to powerful storms, and highlighted the need for long-term protective measures. The federal government has allocated more than $12 billion to Louisiana for rebuilding the levees around New Orleans and other flood protection measures. Likewise, federal funding is needed for the restoration and conservation of Mississippi's ecological systems to protect the state's coastline from future hurricanes.

In November 2005, we presented the state's recovery plan to Congress. Congress has funded or chosen not to fund all recovery requests except the environmental restoration projects needed to mitigate hurricane impacts. Instead, in December 2005, Congress directed the U.S. Army Corps of Engineers (Corps) to develop a report identifying long-term coastal restoration and hurricane protection measures.

The Corps report has been completed and identifies coastal and barrier island restoration projects totaling $1.06 billion. Projects focus on restoring the barrier islands to higher elevations and revitalizing their forestry and vegetation, restoring coastal marshlands, forests, and beaches, and purchasing flood-prone areas from willing property owners for conversion to open space. These three elements will enhance the natural environment, which has been proven to slow storm surge and block powerful winds.

Restoring the barrier islands to their 1917 footprint will provide invaluable protection for the Coast. The barrier islands and coastal wetlands serve as the Coast's primary defense against ocean waves and surge caused by tropical storms and hurricanes. The barrier islands and wetlands protect against flooding by slowing and absorbing waves and storm surge. Models indicate that as storms move across coastal wetlands, their surges are reduced by about one foot per every acre of wetland. Without the buffer of barrier islands, wave and ocean storm surge heights could reach eight to twelve feet higher on the shoreline.

Wetland forestry also serves to block and slow down powerful hurricane winds. When approaching the Mississippi Coast, Katrina was a Category 5 hurricane, but weakened to a strong Category 3 before making landfall.

Since the Corps has completed its report and identified appropriate long-term environmental restoration and hurricane mitigation projects, Congress should provide the funding needed for their implementation. Just as levees protect New Orleans from hurricane surge waters, the barrier islands and coastal wetlands guard Mississippi against the dangers of hurricanes. Funding for these hurricane mitigation measures represents only one tenth of what Louisiana has already been granted for levee rebuilding and flood protection, but completion of these projects will provide equally invaluable protection of life and property. Movement on these projects is needed immediately; delay raises the risk of another powerful storm reaching – and devastating – Mississippi's shoreline.

Each time Congress has allocated Katrina relief funding, it has come through supplemental appropriations bills. Congress is considering another supplemental right now. I ask that you consider including our requests in the supplemental, so that Mississippi is able to fully recover from this devastating storm. Without this relief, the state's recovery cannot be completed.

Again, thank you for your time and thank you for your continued assistance in rebuilding the Mississippi Gulf Coast.

APPENDICES ATTACHED

CDBG Budget
CDBG Housing Programs Unit Projections
CDBG Program Summaries

MISSISSIPPI CDBG BUDGET
May 8, 2009

	Allocated Action Plan Budget	PIPELINE Current Obligation (1)	Pending Pipeline	Under/(Over)
Homeowner's Assistance (Phase I and II)	$ 2,088,464,059	$ 1,993,188,843	$ 60,967,277	$ 34,307,939
Elevation Grants	$ 70,500,000	$ 67,967,074	$ 2,532,926	$ -
Long Term Workforce Housing	$ 350,000,000	$ 211,397,004	$ 36,500,000	$ 102,102,996
Public Housing	$ 110,000,000	$ 62,040,101	$ 47,959,899	$ -
Small Rental	$ 232,500,000	$ 119,263,934	$ 113,236,066	$ -
Low Income Housing Tax Credit Assistance Fund	$ 30,000,000	$ 16,000,000	$ 4,880,431	$ 9,119,569
Water/Wastewater Infrastructure *	$ 641,075,000	$ 611,075,000	$ 30,000,000	$ -
Ratepayer/Windpool	$ 440,000,000	$ 440,000,000	$ -	$ -
Building/Code Inspectors Grant	$ 9,500,000	$ 8,999,775	$ -	$ 500,225
Port of Gulfport	$ 570,000,000	$ 570,000,000	$ -	$ -
Tourism	$ 5,000,000	$ 5,000,000	$ -	$ -
Planning Grants	$ 10,000,000	$ 9,989,900	$ -	$ 10,100
Econ. Dev. Empl. Training Facilities	$ 20,000,000	$ -	$ 20,000,000	$ -
Economic Development Grants/Loans *	$ 247,182,000	$ 185,131,702	$ 62,050,299	$ -
Hancock Co LTR/Ground Zero *	$ 200,000,000	$ 183,516,026	$ 16,483,974	$ -
Community Revitalization *	$ 294,400,000	$ 276,273,318	$ 18,126,682	$ -
Fraud Investigation/Contractor Fraud	$ 5,000,000	$ 5,000,000	$ -	$ -
State Administration **	$ 157,600,000	$ 63,263,933	$ 94,336,067	$ -
Total	$ 5,481,221,059	$ 4,828,106,610	$ 507,073,621	$ 146,040,829

(1) Current Obligation includes approximately $2.65 Billion of disbursed funds and $2 Billion of obligated funds that have not been disbursed.

* Of the $200 Million allocated to Hancock Co. LTR/Ground Zero, $25 Million is designated for Water/Wastewater Infrastructure projects, $15 Million is designated for Economic Development projects, and $160 Million is designated for Community Revitalization projects.

** Of the $157.6 Million allocated to State Administration, $123,570,176 is designated for state administration costs, $9,029,824 is designated for Economic Development administration costs and $25 Million is designated for Phase I and II administration costs.

CDBG HOUSING PROGRAMS

Proposed Housing Units

May 8, 2009

CDBG Housing Program	Produced and Proposed Units
Homeowner's Assistance Program (Phases I, II, & Elevation)	28,342
Public Housing	2,171
Small Rental	4,500
Long Term Workforce Housing	6,213
Tax Credit Assistance Fund	784
Total	42,010

CDBG PROGRAM SUMMARIES

Homeowner Assistance Program. In petitioning Congress for CDBG funding, the major component of the state's comprehensive plan was the Homeowners Assistance Program. This program was created to assist homeowners who made responsible insurance decisions, yet still suffered uncompensated losses. When Katrina's storm surge pushed far beyond federally-drawn flood boundaries, many homes not covered by flood insurance suffered extensive flood damage. These homeowners relied to their detriment on federal government determination that their homes did not need NFIP coverage.

HUD approved the $3.423 billion Mississippi's Homeowners Assistance Program Action Plan on April 3, 2006. The release of funds was approved on July 10, 2006. This compensation program targeted homeowners outside the established flood zones who suffered flood damage to their primary residence from Hurricane Katrina. Its purpose was to provide one-time grant payments up to a maximum of $150,000. To be eligible, homeowners located outside the 100-year flood plain in the counties of Hancock, Harrison, Jackson, or Pearl River must have owned and occupied their primary residence on August 29, 2005, maintained homeowners insurance on the property, and received flood surge damage. To mitigate future risk, each homeowner agreed to place covenants on the property to ensure that any necessary rebuilding or repairs would be made in accordance with new applicable codes and local ordinances; that during rebuilding, the home would be elevated in accordance with FEMA advisory flood elevations; and that the homeowner and successors in title would obtain and maintain flood insurance.

Immediately after releasing the Homeowners Assistance Program, MDA, with HUD's assistance, began designing a second phase of the program that would assist homeowners not eligible under the first phase. Phase II of the Homeowner Assistance Program differs from the first phase in three major respects: applicants were not required to have carried homeowners insurance, applicants' homes could have been located inside or outside the floodplain, and eligibility was limited to those with incomes of 120 percent Area Median Income or below.

On December 19, 2006, HUD approved a modification to the Homeowners Assistance Program to redirect $700 million of the original $3 billion initially allocated for Homeowner Assistance Grants to the Phase II Program. This compensation program targeted low-to-moderate homeowners, either in or out of the flood zone, who suffered flood damage from the hurricane, and who had uncompensated losses due to insufficient insurance. Its purpose was to provide grants up to a maximum of $100,000, or if combined with Phase I proceeds, up to a maximum of $150,000. As in Phase I, to be eligible, homeowners must have owned and occupied their primary residence located in the counties of Hancock, Harrison, Jackson, or Pearl River on August 29, 2005, and received flood surge damage. Because Phase II was intended for low-to-moderate income homeowners, eligible applicants must have had a household income at or below 120 percent of Area Median Income.

To date, the total number of applications approved in both phases is 28,342, with 27,602 applications paid. A grand total of $1,843,135,121 in individual grants has been disbursed directly to 28,000 homeowners in Harrison, Hancock, and Jackson counties. In Phase I, 18,799 grants have been paid totaling $1.4 billion; in Phase II, 8,803 grants have been paid totaling $417 million.

In the original Action Plan, $250 million was allocated to the Elevation Grant Program. This program targets those homeowners who have already received funds for a Homeowners Assistance Program Phase I or Phase II grant, and is used for the specific purpose of defraying the added cost of elevating the applicant's primary residence out of potential danger. Eligible applicants must be located in a flood plain, and are required to elevate to a level at or above the current levels required by FEMA. The maximum grant amount is $30,000, payable upon issuance of the building permit and following successful completion of an environmental review.

To date, 2,302 elevation applications are in process, and 2,168 applications have been approved totaling $65 million. A multi-step environmental review must be completed prior to the disbursement of funds.

Small Rental Program. The Small Rental Assistance Program, allocated $232.5 million, is a forgivable loan program that targets owners of small rental properties in Hancock, Harrison, Jackson, and Pearl River counties. Its primary goal is renovation and restoration of small rental properties in storm-damaged neighborhoods. Owners include individuals, non-profit groups, corporations, and partnerships. Applicants are required to meet program terms for a period of five years. An environmental review is also required. Terms include low-moderate income rental rates, which are directed towards those tenants who are between 80 percent and 120 percent Area Median Income. In fact, 50 percent of households in the Small Rental Assistance Program have been for incomes of $20,000 and under and 20 percent are Section 8 voucher holders.

In addition to the 732 applications awarded in Round 1, MDA is processing more than 2,500 applications for Round 2. Currently, 1,153 applications, representing 1,847 units and totaling $65 million, have been approved. Between 4,500 and 5,000 small rental units are projected to be rehabilitated or built through the program.

Public Housing Program. Approved on August 31, 2006, this program provides $106 million to the five Housing Authorities that suffered hurricane damage. Subject to approval by the MDA and satisfaction of the legal requirement that any housing development receiving these funds serve and house persons of low and very low income, the Housing Authorities can use the monies to leverage other available resources in developing affordable housing to serve this population.

Prior to Hurricane Katrina, the Coast had 2,254 public housing units, and 1,826 are back online, with nearly 300 more scheduled to come online by June 30. Under the Public Housing Program, the Coast will have 3,454 public housing units, an increase of the pre-Katrina total by more than 1,000 units. Currently 570 units are under construction.

Long Term Workforce Housing Program. The $350 million Long Term Workforce Housing Program is designed to incent rental and homeowner housing construction for the workforce, defined as households at or below 120 percent Area Median Income.

For the first two rounds of the Long Term Workforce Housing Program, $235 million was allocated to provide housing for the low-to-moderate income workforce on the Gulf Coast. MDA solicited proposals from developers and non-profit organizations specializing in providing affordable housing. The 36 projects awarded to date represent 6,213 proposed units. It is anticipated that an additional round will be announced that will target need based on the housing study.

Low Income Housing Tax Credit Loan Fund. As a result of tightening credit markets, the pricing of tax credits has changed, and some Low Income Housing Tax Credit projects are under-funded. Recognizing this effect on affordable housing, the state has budgeted $30 million CDBG funds to cover project gaps, which will enable these projects to move forward. Nine projects have been approved for funding representing 784 units.

Regional Water and Wastewater Program. As a result of Hurricane Katrina, many Gulf Coast residents have moved further inland, away from the risk of future storm surges and hurricane force winds. However, for housing to be built to accommodate any migration, water and sewer systems must be expanded to accommodate the growth in an environmentally responsible fashion. A master plan for water and wastewater improvements in the lower five counties has been developed and implemented utilizing the new Gulf Coast Regional Wastewater Authority. This program, which was allocated $ 641 million, will help create new housing opportunities while facilitating future economic development in an environmentally sensitive way. To date, 67 projects have been identified, 11 have begun construction and all 67 have cleared their environmental assessment.

Ratepayer and Windpool Mitigation Programs. The Ratepayer and Windpool Mitigation Programs were allocated $440 million. To offset the potential increase, the Ratepayer program targeted both business and residential customers to protect them from absorbing the entire cost of the utility infrastructure restoration following the storm. After Katrina, 16,000 policyholders faced an increase in annual wind and hail insurance premiums of up to 400 percent. The Windpool program provided a one-time grant to the Mississippi Windstorm Underwriting Association to defray the additional cost of wind insurance. The funds in this program have been 100 percent committed, with a disbursement of $440 million paid in December 2007.

Building Inspector Grants. Due to the significant amount of construction after Katrina and the need to adequately plan and inspect construction activities, MDA provided $5 million in grants to local governments in Hancock, Harrison, Jackson and Pearl River counties to cover the costs for additional permitting and building officials. To date, 16 grant agreements have been issued, funding approximately 86 inspectors.

Fraud Prevention. To address fraud in the grant application process and contractor fraud related to rebuilding efforts, MDA provided a $5 million grant to the Mississippi State Auditor to establish and operate a Katrina Fraud Prevention and Investigation Team. This team investigates instances of fraud identified during the application review and eligibility process as well as suspected fraud cases in rebuilding efforts. MDA has forwarded 117 applications to the Investigation Team of which 87 have been resolved and 30 are active cases.

Community Revitalization Program. Public areas such as fire stations, libraries, and sidewalk infrastructure in many municipalities were either severely damaged or destroyed. To build improved and enhanced pubic facilities not reimbursable through FEMA Public Assistance Program, $277.4 million was allocated to the Community Revitalization program. This program was established to provide funding to local jurisdictions in the counties of Hancock, Harrison, Jackson, Pearl River, George, and Stone. The funding can also be used to address needs created by damage as well as population increase as a result of the storm in the remaining 43 disaster-declared counties in Mississippi. A total of 124 projects have been funded statewide.

As communities located in Hancock, Harrison, Jackson, Pearl River, George, and Stone counties approached recovery from the storm, the MDA provided a $10 million grant to assist them in preparing community plans for rebuilding and repairing areas damaged by Katrina. The funds are 99 percent committed across 27 grant contracts.

Ground Zero Program. The Ground Zero Unmet Needs program was announced in April 2008. This program was allocated $200 million to support the recovery and restoration of Hancock County, the hardest hit area of Mississippi during Hurricane Katrina. MDA has awarded 35 grants totaling $173 million.

Economic Development Program. The primary goal of the $272 million Economic Development Program is creating new jobs by funding public infrastructure improvements or eligible training activities to benefit private, for-profit businesses. All areas of the Gulf Opportunity Zone are eligible through this CDBG program. Grants and loans flow through the local unit of government and projects are funded on an as needed basis. All of the allocated funds have been committed, and grant contracts have been issued for 43 projects creating 7,531 proposed jobs; 22 of the 43 projects have begun construction.

A $5 million Tourism grant program was created to increase the number of visitors to the impacted areas of the Gulf Coast in order to recover and sustain the small businesses that rely on tourism, increase related jobs, and return tax revenues to the communities in which the businesses reside. To date, 100 percent of allocated funds are committed; 27 grant contracts have been signed and all 27 have begun their projects.

The last component of the Economic Development program is the Employee Training Facilities program. This program will provide unskilled, under-employed and unemployed low-income individuals with additional training and ultimately the opportunity to compete for the top wage jobs that are available as a result of the recovery of the ship building and metal-related industries. The facility will be approximately 80,000 square feet in size.

Port of Gulfport. To address the devastation of the Port of Gulfport, $570 million was allocated to the Mississippi State Port Authority to facilitate restoration of public infrastructure and publicly-owned facilities that were destroyed. Realizing the comprehensive recovery of the Gulf Coast cannot occur without restoring the Port both because of jobs and business activity, we are not only aggressively pursuing rebuilding but also working to build a port with sustainable economic development opportunities.

The Port master plan includes elevating Port facilities to 25 feet above sea level, a height that will protect the Port and its tenants from future storm surges. We are rebuilding in a way that will restore the Port to its competitive position in the maritime marketplace, as well as offer protection to the community from future storms once the Port is elevated to 25 feet.

The restoration program is important to recapturing a major portion of the region's job base and to filling a national need for more port capacity. Many of the country's ports are operating above their capacities, and with the expected completion of the Panama Canal expansion in 2014, ports must increase their operations to handle the nation's imports and exports. Restoration will ensure the Port can service increased traffic resulting from improvements to the Panama and Suez canals. A viable port is crucial for handling of these cargoes.

TESTIMONY OF

PAUL RAINWATER,

EXECUTIVE DIRECTOR OF THE LOUISIANA RECOVERY AUTHORITY

BEFORE THE U.S. SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

on May 20, 2009

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Thank you for this opportunity to address this committee about our progress and remaining challenges in Louisiana as we recover not only from hurricanes Katrina and Rita, but also from two new storms in 2008, Gustav and Ike. By this point in Louisiana, the vast majority of the state has suffered the effects of one or more of these hurricanes – from the high-profile catastrophe in the city of New Orleans to the complete devastation of Cameron Parish in the Southwest, which many people haven't heard of but is responsible for much of the nation's domestic oil and natural gas production, to North Louisiana, which is typically a safe haven during storms but this year experienced millions in damages from rain and wind as they passed over.

The situation we face in Louisiana is unique – I know of no other state that has suffered such destruction in three years or that faces as many complex rebuilding issues. In context, the combined impact of Hurricanes Katrina and Rita is the largest disaster in U.S. history. Measured only in terms of Stafford Act funds, it is larger than the next largest disaster -- the Attack on America on September 11, 2001 -- by four times and it is larger than the remaining top 10 disasters combined.

No discussion of the unprecedented level of CDBG aid would be complete without considering the catastrophic damage our state suffered in the span of three weeks after Hurricane Katrina, the failure of the federal levees and Hurricane Rita. Coupled with the damage inflicted last fall by Hurricanes Gustav and Ike, Louisiana faces a major recovery made even more complex by the national economic downturn. Our state will require continued special considerations from the federal government when it comes to federal regulations governing recovery-related funding streams.

Catastrophic Damage to Louisiana

Impact of Hurricanes Katrina and Rita

In 2005 the state of Louisiana bore the brunt of the biggest natural disaster in American history – Hurricane Katrina. Three weeks later Louisiana was hit by Hurricane Rita– now the third most expensive natural disaster in American history.

Hurricanes Katrina (landfall Aug. 29, 2005) and Rita (landfall Sept. 24, 2005) devastated south Louisiana, claiming 1,464 lives and displacing 900,000 residents. In the New Orleans metropolitan area, storm surge from Hurricane Katrina breached the city's levee protection system at several points. Eighty percent of the city was left underwater and thousands were stranded on rooftops and in shelters-of-last-resort. All 26,000 homes in St. Bernard Parish were damaged or destroyed. Hurricane Katrina also left behind major wind, rain and storm surge damage in Plaquemines, Jefferson, and St. Tammany parishes.

Three weeks later, storm surge from Hurricane Rita re-flooded parts of New Orleans before the storm made landfall in far eastern Texas, devastating much of Cameron Parish and leaving behind intense flood and wind damage in Calcasieu and Vermilion parishes. Hurricane Rita destroyed every building in Cameron Parish with the exception of the Parish Court House. Many other Louisiana parishes also suffered major damage from the storms.

The economic impact on Louisiana reaches into the tens of billions lost. Since the storms, estimates show more $51 billion in federal funds have been spent in Louisiana, including monies for disaster response, rebuilding, the National Flood Insurance Program and loans from the Small Business Administration. In addition, Louisiana has invested several billion of its own funds in recovery.

These damage statistics are well known, but it is important to review the scale and scope of two of the largest natural disasters in the nation's history:

- More than 200,000 units with major or severe damage; 82,000 of these were rental units. Orleans parish alone had 50 percent of the damage statewide and lost more than 51 percent of the parish's rental units;
- Almost four years from the storms, more than 2,700 families in Louisiana are still living in FEMA temporary units and more than 26,000 are part of the DHAP Transitional Closeout program;
- This past fall the state experienced two devastating storms, Gustav and Ike. While not at the same scale of the 2005 events, these storms caused significant housing damage and economic interruption along the Gulf Coast.

Additionally, these storms caused much greater damage statewide than in 2005. Another 9,400 homes received major damage and 800 families have been placed in FEMA-assisted housing.

Impact of Hurricanes Gustav and Ike

Hurricanes Gustav and Ike struck Louisiana on September 1, 2008 and September 12, 2008 respectively. The storms flooded approximately 12,000 homes and damaged approximately 200,000 more, caused as much as $750 million in agriculture damages, damaged more than $1 billion in infrastructure and caused $2.5 to $5 billion in business losses. Education facilities across the State suffered between $100 and $150 million in damages. The State evacuated more than one million citizens from South Louisiana and more than 1.5 million homes and business were without power for up to three weeks. The Louisiana Economic Development Department estimates that hurricanes Gustav and Ike left behind $8 billion to $20 billion in insured and uninsured physical damage.

In Louisiana, 46 people died in Hurricane Gustav and five died in Hurricane Ike. The state spent $500 million on the initial response to Gustav and Ike. Following the storms, estimates indicate that FEMA Public Assistance claims in Louisiana will likely exceed $800 million in damages.

Timeline of Federal Aid

In the aftermath of Katrina and Rita, Louisiana received $13.4 billion in Community Development Block Grant funds for disaster recovery, which the state divided among three priorities – housing, infrastructure and economic development. This allocation represents the vast majority of "discretionary" funds the state received. Many other funding sources, including FEMA Public Assistance funds and Hazard Mitigation Grant Program dollars have narrow uses or are tied to specific projects. CDBG funds are one of the few funding streams where the state has some flexibility to set priorities for its recovery, and even then, all of its plans face a public vetting and then final federal approval to ensure they conform with sometimes strict regulations.

Congress allocated $11.5 billion in CDBG funds for Gulf Coast recovery at the very end of 2005, but capped Louisiana's share of funds at 54 percent, even though the state received the lion's share of housing and infrastructure damage during the 2005 hurricane season. When HUD allocated funds to the states in February 2006, Louisiana received only $6.2 billion.

In the summer of 2006, after lobbying by the state, Congress allocated Louisiana an additional $4.2 billion in CDBG funds, bringing the total of funds to $10.4 billion. To access this funding, Louisiana has presented two Action Plans outlining potential uses of funds. In keeping with the state's internal approval process and federal regulations, the Louisiana Recovery Authority's board approves all Action Plans and amendments to these plans, they have a public comment period and plans totally more than $10 million receive a vote of the full Legislature. Following this, the Governor forwards the plans to HUD for approval. This process typically takes between 60 and 90 days from start to finish. In addition to the two overarching Action Plans, Louisiana has presented 31 amendments to the first plan and 12 amendments to the second plan to clarify programmatic rules and outline additional uses of funds. The 32nd and 33rd amendments are in their public comment phase right now.

Following months of administering the Road Home program, which is the largest single home rebuilding program in American history, Louisiana faced a deficit in 2007 because of higher than expected need and lower than expected insurance payouts. In November 2007, Senator Landrieu ensured that the state get a third allocation of $3 billion in CDBG funds.

This final allocation included strict language that forbids Louisiana from using these funds for anything other than approved Road Home activities in the state's original action plan. This language was attached to ensure that Louisiana would not open the program to new applicants or further expand funding to current program participants. In keeping with this language, HUD already has denied the state's request to allow homeowners to exceed the program $150,000 per applicant funding cap for the purposes of providing $7500 grants for individual mitigation measures (IMMs), which were included as an approved use in the original action plan, ruling that this would be a program expansion that cannot be funded using the final $3 billion allocation.

In the aftermath of Gustav and Ike, Congress in fall 2008 set aside a $6.1 billion pool of CDBG funds for states affected by disasters in 2008. HUD allocated the first third of the funding at the end of November to states based on their levels of damage. As of the time this testimony was prepared, HUD had not yet allocated the final two-thirds of the allocation. Louisiana received $438 million in the first round of funding and anticipates that it could receive hundreds of millions of additional funding when HUD allocates the remaining funds.

The state will set aside 25 percent of its total allocation for projects dealing with rental housing, agriculture and fisheries recovery and hurricane protection. The bulk of the funds will be allocated to the parishes based on their level of damage. Parishes will select from a menu of options and decide how they will spend the funds. Louisiana adopted this decentralized funding model for Gustav and Ike parishes after our experience using the Katrina and Rita funds and because of the smaller scale of devastation in the state.

Louisiana already has received HUD approval on its first Gustav/Ike Action Plan, meaning that it can begin drawing down administrative funds to launch programs. Last week, the Governor forwarded the first amendment to this plan to HUD for approval and the state already has held outreach and education sessions with parish officials about accessing the funds and is working on cooperative endeavor agreements with parish governments that will allow them to serve as subgrantees of the state.

Our state was the first state to submit its plan and receive approval for using its funds, mostly due to the critical need to access these dollars, our great familiarity with CDBG funds and our existing hurricane recovery organization. We stand ready to use any additional funds allocated to the state when HUD acts on the remaining funds Congress set aside last year.

Overview of Louisiana's CDBG programs for Hurricane Katrina and Hurricane Rita Recovery

In total the state's property losses after Hurricane Katrina, the failure of the federal levees and Hurricane Rita are estimated to be in excess of $100 billion, when factoring public and private losses. Louisiana identified three priorities for its CDBG funds after the 2005 hurricane season – housing, infrastructure and economic development.

Housing was the top priority for CDBG funds because of the large unmet housing needs in the state, which saw the destruction of more than 200,000 homes. Following housing, the state dedicated funds to infrastructure needs, though the majority of public infrastructure rebuilding is funded with billions in FEMA Public Assistance funds. To address long term rebuilding needs that cannot be met using FEMA funds, Louisiana created the Long Term Community Recovery program, which set aside $700 million in CDBG for projects in plans that parishes formulated and presented to the LRA's board for approval. Additional infrastructure investments included a program to rebuild fisheries infrastructure needed to support this critical industry in Louisiana, pools of funds for local governments and school systems and $200 million for ratepayer mitigation to help repair heavily damaged electrical systems and stave off huge increases in energy bills.

The final priority was economic development. Despite the fact that more than 16,000 businesses flooded and 30 percent of all businesses in New Orleans failed after the storms, the federal government in 2005 and 2006 refused to give the Gulf Coast discretionary economic development funds. So our state carved out a small pool of several hundred million in CDBG for grant and loan program, technical assistance and workforce development. Business need dwarfed the funding we could afford to allocate to this purpose because our other needs were so great.

A full accounting of Louisiana's Katrina and Rita CDBG budget and current expenditures is included in the appendix to this testimony.

The Road Home

The cornerstone of Louisiana's recovery program is the Road Home housing program, which is divided into two components – Homeowner aid and the Small Rental Property Program. Though the Road Home has faced many trials and initially struggled to award grants, we now have paid almost $8 billion to more than 124,000 Louisiana homeowners. Since the beginning of 2008 when Governor Jindal took office, we have disbursed more than $2.2 billion to homeowners, relaunched the stalled elevation program and provided more than $822 million in elevation dollars to 28,400 applicants, started serving applicants who sold their homes prior to the program's launch, revamped the appeals process so that it is more customer friendly and closed more than 31,500 of the most difficult applicant cases. The majority of the applicants we've closed since January 2008 had complicated cases and had been pushed to the back of the line while the contractor picked easier to close cases. In 2008, we had more than 20 successful mobile outreach sessions where we took Road Home and state of Louisiana staff into the community to meet with applicants one-on-one to discuss their issues.

Additionally, in 2008 we decided not to extend the state's controversial contract with ICF International, necessitating that we transition the program to new contractors. In general, the state and the public were not satisfied with ICF's performance, its treatment of applicants and the contract the previous administration signed with the company. We recently hired new contractors to take ICF's place, dividing the work of the company among three firms. By breaking the remaining work up, we can insure a more case management driven program for the remaining applicants. We anticipate that between 2,000 and 3,000 applicants could still close on their grants, though the new homeowner contractor is reviewing ICF's systems to determine if "buckets" of applicants marked as unable to close actually could be closed.

Many of the remaining applicants have difficult title, power of attorney and other legal issues that stand between them and closing on their Road Home grants. The state has provided and will attempt to continue to provide legal services for lower income Road Home applicants. Additionally, we do not have current deadlines for applicants to close. That said, we anticipate that the majority of closings for compensation and elevation grants will be complete by the end of 2009.

There has been some talk of potential unspent funds in the third CDBG allocation of $3 billion. It is entirely too early to know what funds, if any, will remain at the end of the Road Home program. Clearly there is much interest in these funds, should they remain, and it is Louisiana's hope that the state would be able to access the funds to provide additional aid to homeowners and address unmet recovery needs. Because of strict language governing the use of these funds, we must work with HUD and the Congress to ensure they are used properly and may require some flexibility in the interpretation of federal regulations in order to achieve this. Additionally, legislation pending in the Louisiana Legislature requires that we provide full detail of the status of the funds later this year; the state certainly will share this information with its Congressional Delegation and this committee.

While the Small Rental Property Program, the second aspect of the Road Home, has been slower going than we had hoped, we have made great strides in the past year. When we took this program over from the previous administration, it had created only five rental units. We have now created 1439 rental units using these funds. Additionally, we soon will begin offering advance payments to landlords, which was not something done under the original program implementation. This will speed up production of units significantly, as many landlords have been left unable to get financing for their reconstruction efforts due to the economic downturn.

Additionally, we have made great strides in our Low Income Housing Tax Credit "Piggyback" program, which pairs CDBG funds with GO Zone tax credits to help build large rental developments. Six of these complexes opened in March 2009 and another 18 are under construction, including several HUD complexes that will replace the "Big Four" public housing projects in New Orleans. CDBG funding has been critical gap financing that has kept many of these developments afloat during this tough economic time.

In total, when looking at this Piggyback program and other tax credit initiatives by the Louisiana Housing Finance Agency, in Louisiana we have created 7,548 rental units statewide, including 2364 in Orleans Parish. We have another 5,228 units under construction across the state and we expect almost all of these – 5100 – to come online by the end of the year. When coupled with our investments in the Road Home Small Rental program, this will provide much more affordable housing for residents and help stabilize the very uncertain rental market in New Orleans and the surrounding areas.

Remaining Unmet Recovery Needs

As mentioned above, we've made great progress in our recovery. But we still have great needs in order to stabilize our families and rebuild our neighborhoods into strong and vibrant communities.

Homeowner Repairs

- Our greatest need is to get our families back into their homes. While the Road Home program has contributed great resources to our families, a number of barriers continue to prevent homeowners from completing their repairs.
- Initial damages that exceed the combined resources from insurance and the Road Home
- Lack of construction management expertise and resource on behalf of homeowners
- Increases in costs of materials and construction labor
- Increases in insurance costs limit what individuals can put into their homes
- Homeowner resources have been stretched as families try to support temporary rental costs and a mortgage simultaneously
- Significant contractor fraud has drained the resources of homeowners. Estimates from LouisianaRebuilds.info and LSU survey indicate that more than 9,000 families have been victim to contractor fraud in the last three years.

Blight Remediation

- Rebuilding homes is paramount, but will only be successful if we take serious measures to eradicate blight within our neighborhoods.
- Recent research shows that more than 60,000 homes in New Orleans and St. Bernard remain blighted. While much of this will be addressed by homeowners rebuilding their homes and the state and parishes' efforts to bring the Louisiana Land Trust properties back into commerce, blighted properties will still remain.
- Many of these properties remain in disrepair three years after the storms. Large numbers of properties have not been demolished or repaired since the 2005 storms; recent storms only exacerbated the problem. Orleans and St. Bernard parishes alone have approximately 60,000 blighted properties.
- While great progress has been made on many fronts in the recovery, the magnitude of the damage caused by the storms has left parishes with blighted communities—houses in disrepair, commercial strip malls that remain devastated, few neighbors and even fewer businesses. These conditions and the lack of appropriately aligned resources strain public safety resources, reduce property values and tax revenue and threaten the economic viability of the parishes. This lack of action has also made it more expensive for the properties to be returned to commerce.
- The state has committed resources to address the blight conditions that prevent economic recovery but more must be done. In addition to funds to repair and rebuild owner-occupied and rental residential properties, the state has set aside funds to conduct demolition and slab removal for a segment of properties. It has also put resources into financing tools in order for individuals to be able to access repaired owner-occupied properties.
- Unfortunately, these resources only cover a segment of the properties that were taken out of commerce following these disasters.

Rental Needs

- While the state is grateful for the significant resources it received, it received only enough funding to rebuild a portion of units lost – approximately 30,000 of the 82,000 damaged or destroyed. The state has designed its housing programs with a commitment to develop affordable housing within mixed income developments.
- Since January 2009, the state's Piggyback program, which relies on GO Zone Low Income Housing Tax Credits in order to enable the mix of affordable and market rate units that make these projects successful, has completed more than 854 rental units. Another 1,500 are scheduled for completion by the end of the summer.

- While we are just seeing success with this program, the economic downturn is wreaking havoc on this program and other housing development that depends on a combination of Low Income Housing Tax Credits paired with disaster CDBG resources. While 854 units have closed to date, more than 30 projects are in jeopardy of not closing because of the current credit crisis and economic downturn. This equals a shortfall of more than $250 million to $300 million if these credits are not monetized like the credits under the American Recovery and Reinvestment Act.

Solutions: Meeting Critical Housing Needs, Resources and Recommendations

In order to address many of the outstanding housing and neighborhood rebuilding issues, much discussion has been made of the outstanding funds in the Road Home program. Our primary mission is to close as many of the grants as possible and to give as large a grant as eligible under the program's rules.

Although the Road Home Program was the largest rebuilding program in the history of the country, the amount of funding provided still did not match the level of damage. There continue to be gaps in funding that prevent individuals from rebuilding their homes and their lives. The additional proposed programs are in keeping with the intent of the recovery dollars approved by congress and are critical to the rebuilding efforts of many of our citizens who still struggle to rebuild.

GO Zone Credit Exchange
The GO Zone tax credits represent one of the most significant rebuilding tools in the Gulf Coast tool kit. Under our Piggyback program, we have been able to leverage the tax credits more than 3 to 1 through support from our disaster CDBG funding.

We are grateful for our delegation's support of our efforts to request the same regulatory application of these credits as those under the ARRA. On May 14, 2009, the Senate passed a supplemental to assist in securing the GO Zone tax credits for continued rebuilding in the Gulf states. Section 1204 permits TCAP funds to be used with GO Zone and disaster low-income housing tax credits under ARRA. We would encourage the House, during Conference, to also insert language in section 1204 that allows GO Zone and disaster low-income housing tax credits to be eligible for exchange of GO Zone and disaster credits for cash grants under ARRA.

The GO Zone tax credits were not given to us with the caveat of 'unless the economy tanks,' they were meant to instill hope in our rebuilding and recovery. To not allow these credits to follow the exchange offered under the ARRA is to walk away from the promise of our recovery.

Homeowner Rehabilitation Program
This will run as a traditional construction program targeted to homeowners that have remaining significant barriers to getting into their homes. This can include homeowners who received road home and/or insurance payments that were insufficient, victims of construction fraud, or extenuating circumstances that impacted the homeowners ability to rebuild (such as the necessity to pay rent and a mortgage simultaneously). This program would operate through qualified non-profit organizations that could assist with construction and financial management.

The state has already set aside a $5 million pilot program for the most damaged communities. This program will be sent to HUD today for approval after completing public comment. Additionally, the state approved a $20 million rehab program in New Orleans in June 2008 for this purpose, which has yet to launch, and a similar $4 million program in Plaquemines to be sent to HUD today for approval.

Mid-size Rental Housing Program
In order to continue to replace units that have been lost since the storms, this program will be targeted for parishes that have the need for additional rental housing. It is designed to fill the gap between the small rental program, which only covers up to a four-unit complex, and programs designed for large rental projects. This program would operate in the same manner as the revised small rental program and offer up front repair dollars and additional incentives for serving low to moderate income households.

Homeowner/Rental Hybrid (Damaged Property Program)

There were approximately 470 'special cases' that did not fully qualify for the Road Home program and either did not qualify or missed the deadline for the small rental program. These include individuals that rented a portion of their home or former landlords who wanted to rebuild a rental unit to live in themselves. A set aside of approximately $60M would provide rebuilding dollars for these individuals. This would operate as a compensation program for those who qualified.

Blight Remediation Program

What is needed is a Blight Remediation Program to enable these communities to remove or repair and rebuild damaged rental, owner-occupied structures and commercial structures. Resources could also be used to incentive the relocation of businesses such as green business and energy efficient manufacturers to abandoned industrial space.

In addition, this program would provide construction dollars matched to a particular Louisiana Land Trust property. Grant recipients would be a neighborhood groups, non-profits or parishes. Infill could include homes, community centers, or other public structures. Resources would be provided for construction. In return, applicant is responsible for rehabilitation or new construction on the property and assumes maintenance and liability for the property.

Goals for 2009

As we move through another year in Louisiana's recovery from four devastating hurricanes in three years, the state anticipates continues progress by the end of the year, including the approval of more that 75 percent of parish rebuilding funds; creating and repairing more than 5,100 rental units; returning Louisiana Land Trust properties back into commerce and nearing the completion of the Road Home program.

Thank you for your time and for your generous and continued support of Louisiana's recovery.

APPENDIX

Disaster CDBG Program Appropriations, Allocations and Expenditures as of 5/15/2009

Appropriations and Allocations	Congressional Appropriations	Proposed Allocations	Restricted Balances
1st Appropriation	$6,210,000,000	$6,206,797,382	$3,202,618
2nd Appropriation	$4,200,000,000	$4,187,356,666	$12,643,334
3rd Appropriation	$3,000,000,000	$3,000,000,000	$0
Sum:	**$13,410,000,000**	**$13,394,154,048**	**$15,845,952**

Administration and Technical Assistance	Louisiana Allocations as of 5/2009	Expenditures thru 5/15/2009	Remaining Balances
Administration and Technical Assistance	$191,300,000	$29,234,865	**$162,065,135**
Sum:	**$191,300,000**	**$29,234,865**	**$162,065,135**

Economic Development Programs	Louisiana Allocations as of 5/2009	Expenditures thru 5/15/2009	Remaining Balances
Louisiana Bridge Loan*	$17,000,000	$5,578,303	**$11,421,697**
Louisiana Tourism Marketing	$28,500,000	$28,494,212	**$5,788**
Recovery Workforce Training	$38,000,000	$17,691,394	**$20,308,606**
Research Commercialization/Educational Enhancement	$28,500,000	$7,645,823	**$20,854,177**
Small Firm Recovery Loan and Grant	$209,032,456	$153,003,532	**$56,028,924**
Technical Assistance to Small Firms	$9,500,000	$6,089,357	**$3,410,643**
Sum:	**$330,532,456**	**$218,502,622**	**$112,029,834**

Housing Programs	Louisiana Allocations as of 5/2009	Expenditures thru 5/15/2009	Remaining Balances
Building Code Enforcement	$16,390,000	$13,738,906	**$2,651,094**
First Time Homebuyer Pilot Program	$40,000,000	$6,364,360	**$33,635,640**
Homelessness Supports and Housing	$25,900,000	$6,299,667	**$19,600,333**
Homeowners Assistance	$9,986,716,534	$8,432,151,685	**$1,555,564,840**
Housing Development Loan Fund	$16,570,000	$2,197,373	**$14,372,627**
Land Assembly Operations	$2,070,000	$668,032	**$1,401,968**
LIHTC/CDBG Piggyback	$581,046,000	$186,378,303	**$394,667,697**
Small Rental Property	$751,462,250	$110,876,903	**$640,585,347**
Soft Seconds	$75,000,000	$0	**$75,000,000**
Supportive Housing Services	$72,730,000	$766,256	**$71,963,744**
Support to Community Based Programs	$2,070,000	$1,377,360	**$692,640**
Sum:	**$11,569,954,784**	**$8,760,818,845**	**$2,810,135,930**

Infrastructure Programs	Louisiana Allocations as of 5/2009	Expenditures thru 5/15/2009	Remaining Balances
Fisheries Assistance	$28,750,000	$30,296	**$28,719,704**
Infrastructure Program Delivery	$15,000,000	$695,335	**$14,304,665**
Local Government	$91,333,333	$2,231,575	**$89,101,758**
Long Term Community Recovery	$700,000,000	$5,911,394	**$694,088,606**
Primary and Secondary Education	$247,500,000	$59,060,837	**$188,439,163**

Ratepayer Mitigation		$200,000,000	$180,812,593	**$19,187,407**
	Sum:	**$1,282,583,333**	**$248,742,031**	**$1,033,841,302**

Planning		Louisiana Allocations as of 5/2009	Expenditures thru 5/15/2009	Remaining Balances
Environmental Clearance		$4,283,475	$1,855,277	**$2,428,198**
Planning		$15,500,000	$9,744,645	**$5,755,355**
	Sum:	**$19,783,475**	**$11,599,921**	**$8,183,554**

Total Allocated by Louisiana as of 5/2009	Total Expended as of 5/15/2009	Total Remaining Balance
$13,394,154,048	**$9,268,898,283**	**$4,125,255,765**

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COMMUNITY · AFFAIRS

Testimony of:

Charles S. (Charlie) Stone
Executive Director
State of Texas
Office of Rural Community Affairs

Hearing on:

"The Role of the Community Block Grant Program in Disaster Recovery"

Committee on Home Land Security and Governmental Affairs
Ad Hoc Subcommittee on Disaster Recovery
United States Senate

May 20, 2009

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Texas' Experience

Chairwoman Mary Landrieu, Ranking Member Graham, and Members of the Committee:

My name is Charles S. (Charlie) Stone, and I am Executive Director of the State of Texas Office of Rural Community Affairs (ORCA). ORCA has been designated by Governor Rick Perry as the lead State agency in Texas responsible for distribution of Community Development Block Grant funds for Hurricanes Dolly and Ike recovery. Thank you for inviting me to update you on these efforts.

Between 2005 and the present, Texas communities have experienced the impacts of **seven (7)** major storm events. From providing shelter to the evacuees from Katrina through the impacts of Humberto, Edouard and Gustav to the large-scale recovery efforts of Rita, Dolly and Ike, the State of Texas has attempted to improve service to communities and facilitate a rapid recovery. In a few days -- on June 1, 2009 -- we will begin another hurricane season with future impacts on our State still unknown.

The Office of Rural Community Affairs has played a crucial and growing role in Texas recovery efforts during the three most significant events of Hurricanes Rita, Dolly and Ike.

Reports from the Field, Current Status of Recovery Efforts - Hurricanes Rita, Ike & Dolly

Expenditures and Unmet Needs

It is important to note that field reported assessments of damage and community needs are dynamic and reflect the timeframe in which they were performed subsequent to the disaster event. Recovery efforts for Rita, Dolly and Ike are at very different stages in damage assessment, appropriation of funds and implementation. However, based on the Texas Rebounds Report published by the Governor of Texas for the events, allocations to-date have met 61% of Rita needs and 4% (through the first round of funding) of combined Hurricanes Dolly and Ike needs, as illustrated below:

Katrina/Rita Housing Repair & Reconstruction and Critical Infrastructure Recovery Funding

TOTAL CDBG SUPPLEMENTAL APPROPRIATION		
Total Funding Appropriation	**$503,194,849**	**61%**
Total Funding Needs	**$820,300,000**	**100%**
Unmet Funding Needs	**$317,105,151**	**39%**

Dolly/Ike Disaster Recovery Funding All Categories

TOTAL CDBG FIRST ROUND SUPPLEMENTAL APPROPRIATION		
First Round Funding	**$1,314,990,193**	**4%**
Total Damage Estimates	**$29,400,000,000**	**100%**
Unmet Funding Needs	**$28,085,009,807**	**96%**

As reminder, recovery funding for Gustav and Edouard were provided solely from FEMA sources. In addition, communities affected by Hurricane Rita received CDBG funding in two allocations (Rita 1 awarded June 9, 2006 and Rita 2 awarded May 9, 2007). Of the two non-housing appropriations, 93% of the Rita 1 and 26% of Rita 2 have been expended. To date, 67% of Rita 1 and 15% of Rita 2 housing funds have been expended.

Lessons Learned

In an effort to accelerate local project applications, ORCA hired the engineering firm HNTB to perform non-housing project assessments in the 29 most impacted of the 62 eligible counties. A project worksheet (PW) review was conducted to determine opportunities for FEMA Public Assistance and identify opportunities for additional funding to communities based on PWs completed by FEMA to date to maximize CDBG funding. HNTB identified $18,900,000 in additional FEMA funds that could be reimbursed or an average increase of 13% per project. This suggests potential for greater efficiency and local benefit from a combined damage and project evaluation process.

Timelines

The recovery efforts for Hurricane Rita illustrate the delays inherent in the current process and service structure.

- Three (3) months from the date of Hurricane Rita (September 24, 2005), Texas received Congressional appropriations for Rita 1 funding,
- Five (5) months from the date of the event, HUD placed the required notice in the Federal Register (February 2006).
- Nine (9) months from Hurricane Rita, Texas completed necessary citizen participation for HUD requirements and received HUD approval of the Action Plan (June 2006). In addition, expenditure of recovery funds was delayed by HUD policy interpretations on environmental reviews, project eligibility, and changes in FEMA's matching funds requirements.

Please see charts in **Attachment One** for details.

Elapsed Time for Hurricane Rita Recovery Efforts

- 360 days to complete Davis-Bacon Act requirements for all contracts (1/2007 – 12/2007)
- 486 days to complete Environmental Review for all contracts - (9/2006 – 10/2007) 685 days after event – First expenditure of Non-Housing funds (8/2007)
- 1,194 days after event – 88.8% of funds expended locally (12/31/08)
- Three years and seven months after the event 95.6% of funds expended locally (92 Non-Housing Projects funded, 94 Communities received Non-Housing funds) 5/2009

In summary, the proposed changes to Title I, including the Stafford Act, that are currently before you would have accelerated Rita recovery efforts by at least 12 months.

Opportunities for Improvement

Steps Toward More Effective Recovery Efforts
The proposed revisions to Title I that include the Stafford Act are responses to past challenges that prolonged the recovery process for affected communities. The Council of State Community and Economic Development Agencies (COSCDA) endorsed these revisions and have included them in their legislative priorities.

These changes would apply automatically to disasters with total damages estimated at or greater than $1 billion and for the most part reflect the codification of waivers previously granted for recovery efforts after major storm events.

PROPOSED REVISIONS TO TITLE I AND THE STAFFORD ACT	STORIES FROM THE REAL WORLD
1. Suspend requirements related to labor standards for up to 12 twelve months from the date of the disaster.	The documentation of compliance with Davis-Bacon takes too long in a disaster and there is a shortage of construction workers available to work. Compliance with the federal requirements related to Davis-Bacon and related acts kept communities from finding contractors who had more than enough work on non-federal jobs. The City of West Orange had a contractor that almost walked mid project when Davis-Bacon requirements came into play because of burdensome administrative requirements.
2. Exempt from all environmental review procedures improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety.	Delays required by environmental review unduly delayed the expenditure of disaster funds. The determination of the level of environmental review for acquisition of generators took in excess of six (6) months to clear. This delay prevented communities from moving forward with purchase and installation of generators at least through the next hurricane season.
3. Revise use of funds principally benefiting low and moderate-income persons to be not less than 50 percent of the aggregate as codification of a waiver normally granted.	Since extensive damage to community development and housing affected those with varying incomes, lowering the requirement gives States greater flexibility to help entire communities recover more quickly. This waiver would allow the State to focus on those most in need of assistance.
4. Revise the comparable replacement housing requirements in the disaster area as codification of a waiver normally granted.	Allows substandard units to be removed as a result of the disaster that are a health and safety concern. This waiver allows the State to prioritize its funds to projects where they were most needed when people choose to not return to the affected area.

5. Revise the timely expenditure of funds requirement that applies to the annual allocations as codification of a waiver normally granted.	If not implemented, it may take longer to obligate CDBG funds in a disaster situation due to the timing of completing damage assessments or interaction with other federal programs. This revision would avoid the loss of needed funds.
6. Revise restrictions to allow states to carry out activities directly rather than be required to distribute all funds to local government as codification of a waiver normally granted.	Allows the funds to move more quickly and to make use of entitlements that had CDBG experience. ORCA was able to work with the City of Port Arthur and Orange who are both entitlement cities. Their previous experience with CDBG helped those projects move much more quickly while still keeping the federal reporting to one grant. This also allows ORCA to work with for profit and not-for-profit organizations.
7. Revise procedures so that, in the event of a conflict between program funding sources, any disaster project funded by any federal assistance shall adhere to the CDBG requirements proposed herein.	USDA and FEMA have different rules for procurement, Davis-Bacon and environmental reviews. FEMA does not take advantage of the exempt level of environmental review for restoration and repair, does not follow the eight-step process related to work in a flood plain, and has another interpretation of compliance with Davis-Bacon Act. In projects where ORCA provided the match (i.e. FEMA's Hazard Mitigation Grant Program) this has created an issue in documenting compliance.
8. Revise procedures so that, in the event of a conflict between federal program funding sources, no disaster project otherwise eligible for CDBG funds shall be required to provide a matching contribution to access other federal funds.	While Texas received additional funds from FEMA related to Hurricane Rita recovery, FEMA repeatedly changed matching funds requirements. The match jumped from 25% match to 10% match, to 0% match causing numerous administrative, budget and performance statement amendments.
9. Procedures preventing duplication of benefits shall not apply to donated volunteer labor, hazard insurance, flood insurance, or disaster payments received from the Federal Emergency Management Agency or the Small Business Administration	In Texas, Hurricane Rita victims used funds from FEMA to make emergency repairs to their houses, such as purchasing tarps to place over the roof. When the State of Texas came in later with CDBG housing assistance money, the duplication of benefits prohibition in the Stafford Act deducted FEMA and other housing assistance from the CDBG award and created a gap in funding for property owners.

10. The Army Corps of Engineers and other permitting agencies shall prioritize disaster area projects over any other project.	Required federal permits are being delayed in excess of 12 months for disaster projects. ORCA is funding the repair of over 25 bridges related to damage from Hurricane Rita. According to the Army Corp of Engineers, most will need 404 permits that are estimated at 12-18 months for approval with no possibility for prioritization.

Comparison of FEMA Public Assistance vs. CDBG
ORCA believes both programs (FEMA Public Assistance and CDBG non-housing assistance) are critical for successful recovery of a community. The challenge for implementation is the programmatic structure and differences in standards and policy that conflict and interact with each other. These unintended consequences cause delay, uncertainty and potentially reduce benefits to affected communities.

Matching of Funds Requirements – The need for communities to provide matching funds for FEMA projects is a significant barrier for many communities that lack both the fiscal capacity and manpower resources after a catastrophic storm to develop funding sources while coping with provision of day-to-day services. The Congressional appropriation stated that supplemental CDBG funds under Dolly & Ike cannot be used as match, further limiting local options to access FEMA funds. FEMA changing match funds amounts was another factor that contributed to the uncertainty and delay encountered in Rita.

Eligibility Requirements – The pace of assessing damages for FEMA funding can adversely impact CDBG eligibility. HUD has stated that projects eligible for FEMA benefits are not eligible for CDBG funds. This either delays projects or potentially makes them non-competitive if FEMA has not completed their eligibility process prior to when CDBG grants are awarded. A project should be able to proceed with funds through CDBG and FEMA reimbursing ORCA for eligible costs.

Limitations on Use – The FEMA standard of funding to restore "pre-event status" complicate not just efforts to restore a facility but to also cost-effectively harden or improve systems that were marginal or inadequate before the storm. This forces communities to structure the scope of a project for the best chance at funding rather than to address the true need. CDBG funds should be used to harden or improve these facilities with FEMA reimbursing the project for the amount of initial reconstruction.

ORCA's position is that we should utilize CDBG as the central process for long-term recovery from which other programs can be tapped to address specialized funding needs. The proposed revisions to Title I and the Stafford Act address some of these shortfalls and move the discussion in that direction.

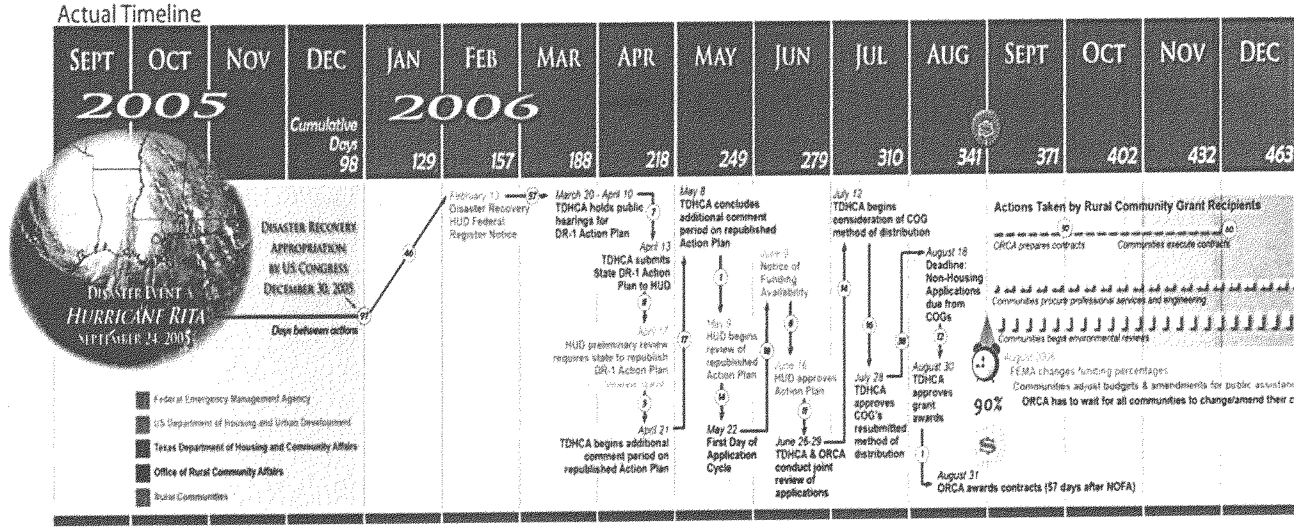
Fulfilling CDBG's Potential in Disaster Recovery
The frequency, intensity and scale of recent disasters has heightened public awareness and increased expectations of government, both during and after crisis situations. Each of the five (5) storm events to impact Texas since Katrina and Rita has contributed to our body of knowledge, spurring changes to the ongoing challenge of disaster response and recovery.

This has revealed both strengths and need for improvement in CDBG and other federal programs to better address the needs of communities struck by major disasters. Clearly, a customer-centric service delivery approach is more effective than a funding source-driven recovery effort.

A system that appears reasonable for communities completing one (1) or two (2) projects every few years with a given federal funding source becomes unworkable, overwhelming local governments during a widespread disaster event. Differing terminologies, procedures and agendas confuse - if not stymie - the public and local officials. Communities need a clear understanding of damage assessment methodology and project eligibility early in the process.

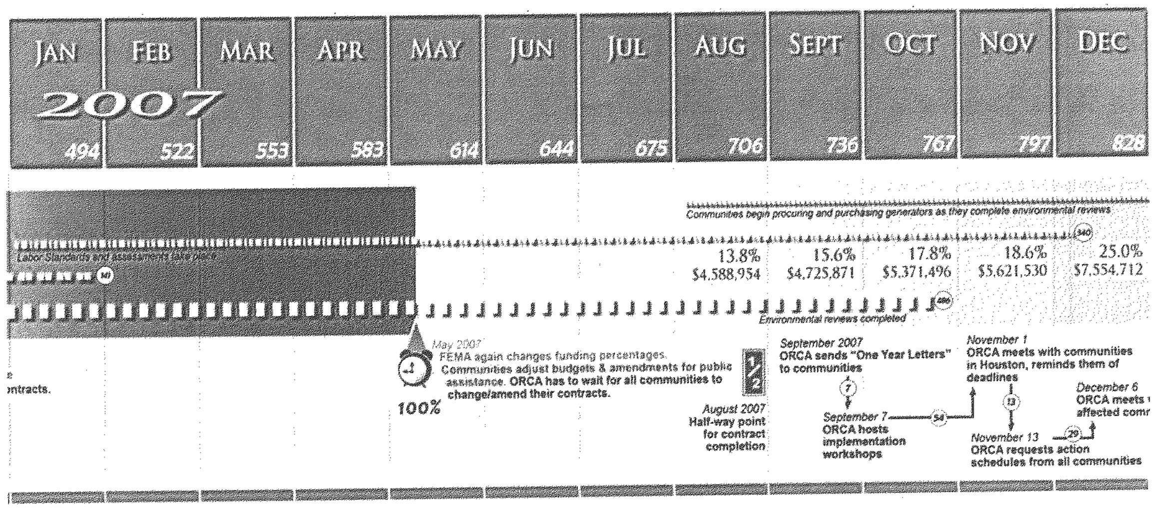
Lastly, ORCA holds that disaster communities would benefit from a unified federal program for long-term recovery that acts as a portal to other funding sources. The status quo is typified by numerous agencies for which disaster recovery is an adjunct function rather than the primary mission. The result, a patchwork of ad hoc waivers and interpretations for each disaster event, creates a weak and inefficient framework for local decision-making. Both local governments and the consultant community are familiar with the CDBG structure, requirements and program history. CDBG offers the framework and methodology to direct local recovery and redevelopment activities. The proposed changes to Title I and the Stafford Act should be seen as a first step to bridge the gaps and resolve unintended consequences that stand in the way of rapid recovery. The suggested changes to Title I will help to move away from ad hoc post disaster waivers toward proactive policies and contingencies -- critical issues for quick implementation of disaster recovery programs.

Texas Hurricane Rita Recovery Timeline



- 97 Days after event - Congressional Appropriation 12/30/05
- 201 Days after event – Action Plan submitted to HUD 4/13/06
- 275 Days after event - Action Plan approved 6/16/06

Texas Hurricane Rita Recovery Timeline



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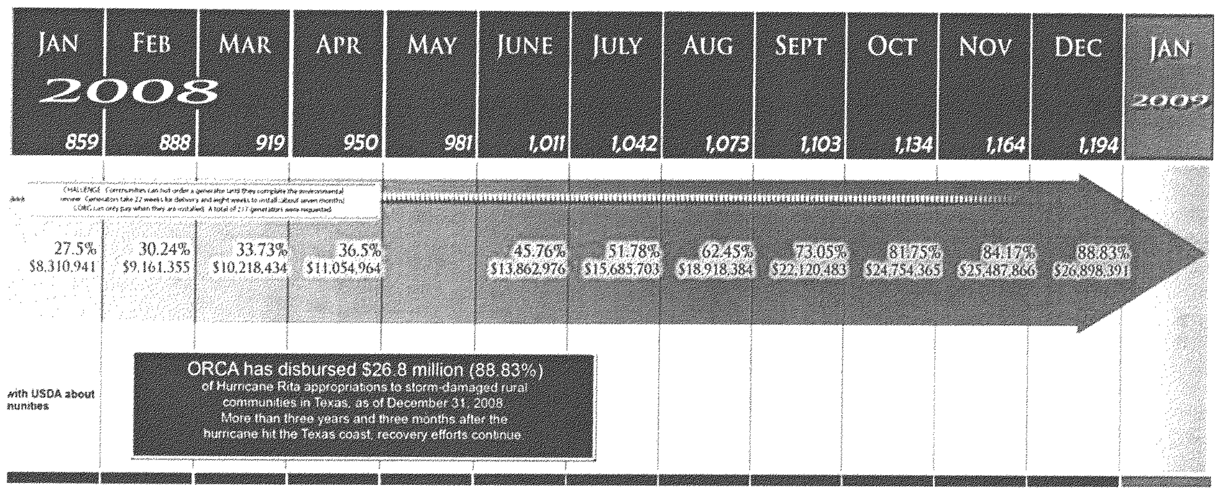
Texas Hurricane Rita Recovery Timeline



- 1,194 Days after event – 88.8% of funds expended locally (12/31/08)
- Three years and seven months after event, 95.6% of funds expended locally (92 Non-Housing Projects funded, 94 Communities rec'd Non-Housing Funds) 5/2009

TESTIMONY OF FREDERICK TOMBAR

SENIOR ADVISOR

OFFICE OF THE SECRETARY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BEFORE THE AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

UNITED STATES SENATE

Thank you, Chairman Landrieu, Ranking Member Graham and members of the Committee for hearing my testimony today. My name is Fred Tombar, and I am a Senior Advisor to Secretary Shaun Donovan at HUD. It is an honor to join you today to discuss the administration of Community Development Block Grant or CDBG funds for disaster recovery following Hurricanes Katrina, Rita, Gustav, and Ike. I'm eager to share with you some of the successes of the CDBG program in disaster impacted areas, and I look forward to working with you to improve our efforts for the future.

As I begin my statement, On behalf of Secretary Donovan, I want to express HUD's commitment to seeing the Gulf Coast Recovery through. From the very beginning of this Administration, the Secretary has devoted a great deal of time and energy to the recovery. That effort began with our efforts to ensure disaster survivors receiving assistance through DHAP were able to make a smooth transition off of the program. We worked with your staff, Madam Chairman, and FEMA to provide additional assistance to families until August 31 giving them more time to transition out of the DHAP program, either to self-sufficiency or other federal or state housing programs, including HUD's Housing Choice Voucher (HCV) program. Also, on March 5, the Secretary joined Chairman Landrieu and Secretary Napolitano on a trip to the Gulf Coast to see recovery first hand, and to begin a coordinated effort to boost the recovery effort. You will find that President Obama, along with this Secretary, are absolutely committed to being partners in struggle to help the Gulf Coast to a full and speedy recovery.

Since 1993, CDBG funds have been used as a tool for funding disaster recovery activities of states and communities. Once an appropriation has been made, HUD has responded quickly to allocate funds to eligible governments. In recent years, Congress has directed funding to State governments.

Three supplemental appropriations providing CDBG funds for Gulf Coast disaster recovery purposes have been enacted since Hurricane Katrina's landfall on August 29, 2005, and Hurricane Rita's landfall on September 24, 2005; Hurricane Wilma made landfall a month after that. The first CDBG supplemental provided $11.5 billion in CDBG disaster recovery funding on December 30, 2005. Within one month, the Department allocated these funds based on areas of highest need and with greatest concentration of destruction. In June 2006, the second CDBG supplemental provided an additional \$5.2 billion and the Department promptly allocated these funds to the affected states. The third supplemental was signed in November 2007, providing an additional \$3 billion specifically to close the funding gap for the State of Louisiana's "Road Home" homeowner assistance program.

To date, a total of \$19.673 billion in CDBG funding has been appropriated for the five Gulf States impacted by Hurricanes Katrina, Rita, and Wilma. Of this amount, states have proposed to fund housing programs totaling over \$15.4 billion, or 73 percent of the amounts appropriated. In slightly more than three years since the first supplemental appropriation, the states have expended over \$12.2 billion for CDBG recovery activities; over \$11 billion has been disbursed for housing assistance activities. Thus, approximately 89 percent of all funds expended to date have been for housing activities.

The first two CDBG supplemental appropriations were clear in their intent and conferred flexibility upon the states. Traditionally, it is the grant recipients, rather than HUD, that design programs, within the federal constraints, to address local needs but Congress clearly indicated that HUD should waive the normal program parameters to give grantees even greater flexibility to carry out recovery activities within the confines of the CDBG program national objectives.. The first CDBG supplemental stated that HUD must waive all regulations or statutes that could hinder implementation of the states' plans. Only four areas were exempt from this mandate: fair housing, environmental review, civil rights and labor standards. The second supplemental bill modified the direction on waivers to state that HUD may approve waivers.

As Congress intended, the eligible states have substantial flexibility in designing programs within the overall purposes of the legislation, establishing funding levels, and carrying out the activities to achieve their goals. This approach has allowed each of the five states to tailor its recovery programs to best address the needs of its citizens. HUD's primary role has been to provide technical assistance on the federal program requirements and to monitor the use of funds.

HUD has implemented the grants with waivers and alternative requirements that balance flexibility, accountability and performance. A state may establish innovative activities, but must still follow federal financial management requirements. Quarterly performance reports are submitted not only to HUD program staff who use them to track progress but the states must send the reports to Congress and post them on the Internet for transparency purposes.. The largest activities in CDBG history– the Louisiana and Mississippi homeowners' compensation and incentive programs– have been the subject of innumerable compliance and financial reviews from HUD and its Office of Inspector General, state auditors, internal auditors, independent auditors and multiple anti-fraud investigators.

With respect to Hurricane Gustav that made landfall in Louisiana on September 1, 2008, and Hurricane Ike that made landfall in Texas on September 13, 2008, these storms delivered a second blow to areas that had been struck by Hurricanes Katrina and Rita in 2005. In response to these storms and a range of other natural disasters that occurred in

2008, Congress appropriated an additional $6.5 billion in CDBG disaster recovery funding in September 2008. Of this amount, $2.145 billion was allocated to 14 states with the largest allocations going to the states of Texas ($1.314 billion), Louisiana ($438 million) and Iowa ($125 million). The grants for these three states have already approved and the funds are available to implement a wide range of long-term recovery efforts. Secretary Donovan intends to allocate the remaining funds in the near future following a review of the allocation processes.

HUD's goal was to get the money to states quickly as possible so the state could act to use the funds for their disaster recovery efforts, but HUD has retained in oversight role to ensure the use of the funds is consistent with national objectives of the program. Following an appropriation of CDBG funds for disaster recovery, HUD publishes a notice in the Federal Register that contains the allocations of funds and program requirements, including waivers requested by the states and alternative requirements. Subsequent notices are published as the Department grants additional waiver requests from the states. Unless there has been a significant policy or legal issue, HUD has reviewed and responded to those additional waiver requests very quickly.

Even before the initial notices containing allocations and program requirements are published, states can begin developing their applications – called Actions Plans for Disaster Recovery– plans for the use of funds, and then fine-tune those plans after the notice is published and after they have carried out their responsibility to solicit and adjudicate comments from the public on the proposed Action Plan. Again, after the Department receives an Action Plan it is reviewed and acted upon very expeditiously– generally within a few weeks. HUD encourages the states to consult with the Department if they have any questions about eligibility of activities or need other technical guidance as they make their decisions on how to structure their programs. The states have the authority and ability to revise funding levels and to shape their programs in response to changes in need and opportunity by amending their Action Plans after going through their citizen participation process.

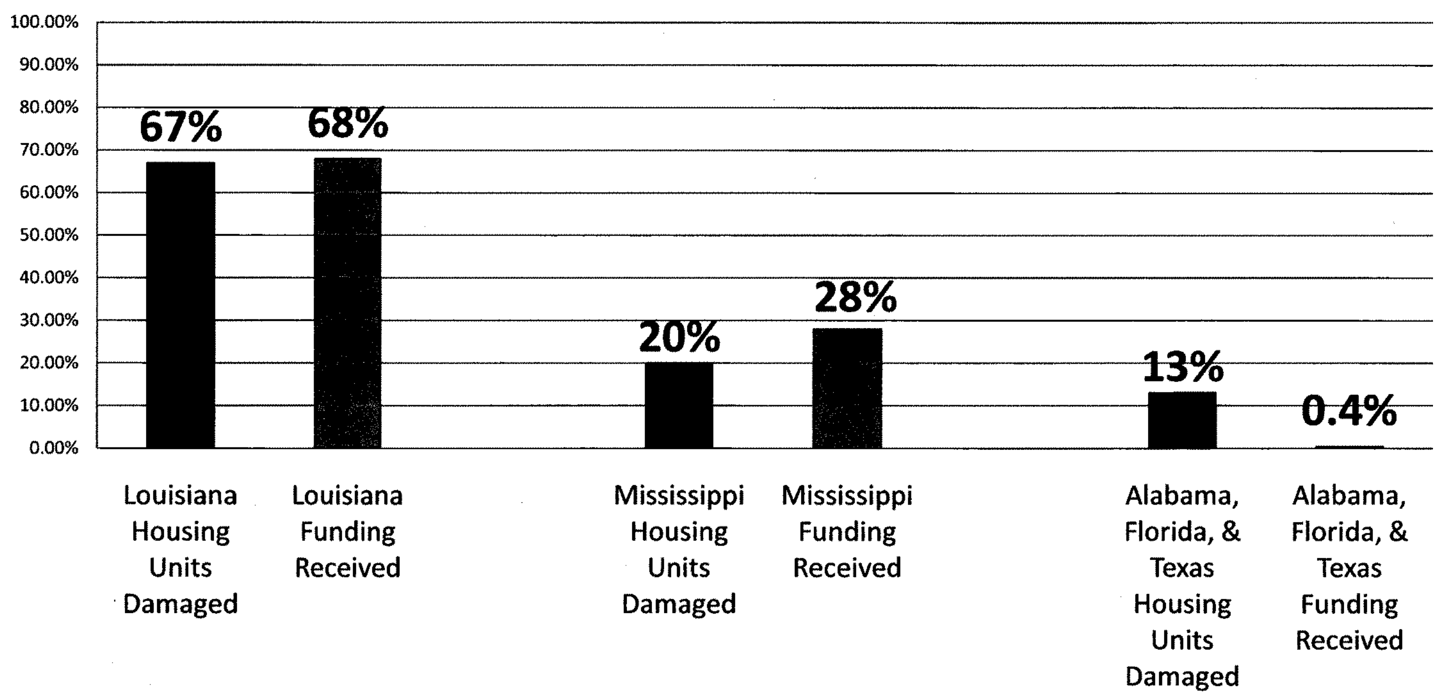
While not everyone agrees with every program choice the state makes, HUD has found overall compliance with program and financial rules to be very good. A continuous improvement process regularly evaluates obstacles and seeks both short and long term solutions. In addition, fraud and abuse has been minimized thanks to the collective diligence of federal, state, and local officials.

As I said at the beginning of my testimony, CDBG disaster recovery funds have proven to be a tool for assisting states and communities with disaster recovery, especially long-term recovery. Possible activities cover housing, infrastructure, job retention and creation, public services, and more. It has the advantage of providing flexible funding with state and local decision-making and responsibility. The challenges are that disaster recovery activities can be complex, require tough local decisions, and may require grantees to acquire additional capacity to carry them out.

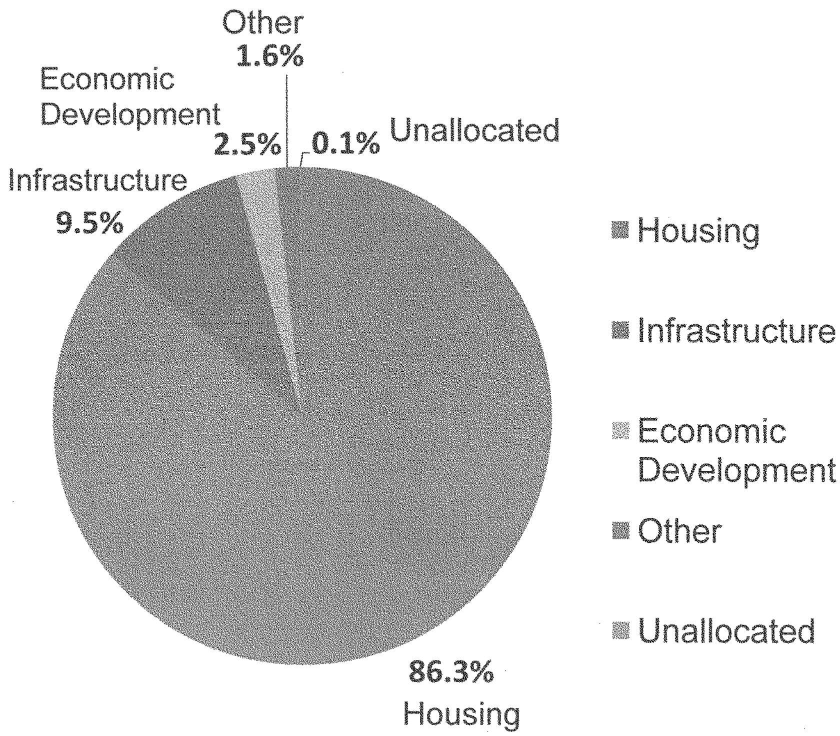
Thank you for the opportunity to appear before this Subcommittee. This completes my testimony and I look forward to answering your questions.

2005 Hurricanes:

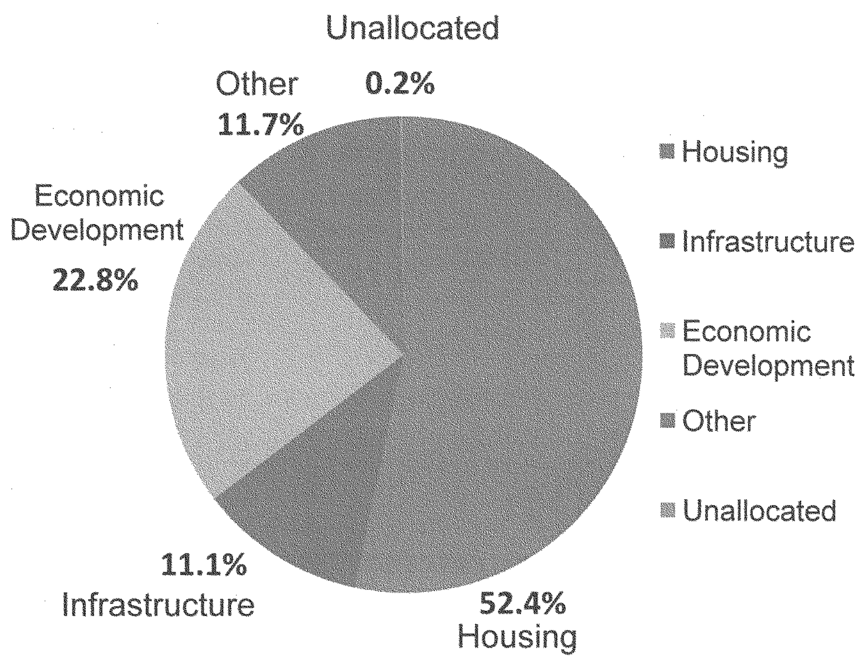
Housing Damages vs. CDBG Allocations



Louisiana's Allocation of CDBG Funds



Mississippi's Allocation of CDBG Funds



A BILL

To suspend certain federal requirements under Title I of the Housing and Community Development Act of 1974 and to change certain other federal requirements in the event of extraordinary disasters, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the Expedited Community Development Block Grant Disaster Recovery Assistance Act of 2008.

Sec. 2. SUSPENSION AND ELIMINATION OF CERTAIN REQUIREMENTS AND THE ESTABLISHMENT OF PRIORITIES.

(a) For funds designated under this chapter by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq.], in which the amount of damage is estimated by the Federal Emergency Management Agency to be less than one billion dollars, the Secretary may suspend all requirements for purposes of assistance under section 5306 of this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low-and moderate-income.

(b) For funds described in subsection (a) in which the amount of damage is estimated by the Federal Emergency Management Agency to equal one billion dollars or greater, the Secretary shall suspend for a period of time not to exceed twelve months from the date of the disaster, all requirements for purposes of assistance under section 5306 of this title for that area related to labor standards. In addition, assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration undertaken in the disaster area are deemed to be exempt from all environmental review procedures.

(c) The aggregate use of funds received under section 5306 of this title to address the disaster described in subsection (b) shall principally benefit persons of low and moderate income in a manner that ensures that not less than 50 percent of the aggregate of such funds are used for activities that benefit such persons.

(d) The comparable replacement housing requirements of sections 5304(d)(2) and (3) of this title do not apply in the disaster area described in subsection (b).

(e) The funds described in subsection (b) are not required to adhere to the timely expenditure of funds requirement that applies to the annual allocation of funds under this title.

(f) Notwithstanding section 5306 of this title, a State may carry out activities in the area described by subsection (b) through its employees, through procurement contracts, through loans or grants under agreements with subrecipients, or by one or more entities that are designated by the chief executive officer of the State and with entitlement communities. Activities eligible under section 5405(a)(15) of this title may only be undertaken by entities specified in that section whether the assistance is provided to such an entity from the State or from a unit of general local government.

(g) Notwithstanding any other provision of law, any project funded, regardless of the source of federal assistance, to address the disaster described in subsection (b) shall adhere to the requirements of this chapter in the event of a conflict.

(h) Notwithstanding any other provision of law, no project funded, regardless of the source of federal assistance, to address the disaster described in subsection (b) shall be required to provide a matching contribution.

(i) Notwithstanding any other provision of law, the procedures preventing duplication of benefits established pursuant to the Robert Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5170 et seq.] shall not apply to any benefits received from donated volunteer labor, hazard insurance, flood insurance, or disaster payments received from the Federal Emergency Management Agency or the Small Business Administration in the event of a disaster described in subsection (b).

(j) The Army Corps of Engineers and each agency that issues permits shall prioritize any project located within the area of disaster described in subsection (b) over any other project not located in the disaster area.

EXPLANATION OF PROPOSED BILL:

It amends 42 U.S.C. Sec. 5321, "Suspension of requirements for disaster areas"

(a) This is the current law, except for the insertion of the disaster amount.
(b) This begins the insertion of different requirements for mega disasters, i.e. those in which FEMA estimates the damage is equal to or more than $1 billion. Davis-Bacon labor standards are suspended for 12 months from the date of the disaster. Also, any repair or restoration project in the disaster area is exempt from all environmental review procedures.
   Example: The documentation of compliance with Davis-Bacon takes too long in a disaster and there is a shortage of construction workers available to work Compliance with the federal requirements related to DBRA kept communities from finding contractors who had more than enough work on non-federal jobs. The City of West Orange had a contractor that almost walked mid project when Davis Bacon came into play. The City of Bridge City is having a hard time finding someone to bid repairs on their sewer treatment plant.
   Example: Delays required by environmental review unduly delayed the expenditure of disaster funds. The determination of the level of environmental review for acquisition of generators took in excess of 6 months to clear up. This delay prevented communities from moving forward with purchase and installation of generators at least through the next hurricane season.
(c) Reduces the aggregate use of funds requirement from 70% to 50%
   Example: Since extensive damage to community development and housing affected those with varying incomes, lowering the requirement gives States greater flexibility to help entire community comes back more quickly. This waiver allowed the State's to focus on those most in need of assistance.
(d) Eliminates the one for one housing replacement requirement benefits in the disaster area
   Example: Allows substandard units to be removed as a result of the disaster that are health and safety concerns. This waiver allowed the State to prioritize its funds to projects where there were most needed.
(e) Eliminates the timely expenditure of funds requirement for disaster funds
   Example: It may take longer to obligate funds in a disaster situation.
(f) Allows the State to carry out activities directly and with entitlement communities.
   Example: Allows the funds to move more quickly and to make use of entitlements that had CDBG experience. ORCA was able to work with the City of Port Arthur and Orange who are both entitlement cities. Their previous experience with CDBG helped those projects move much more quickly while still keeping the federal reporting to one grant.
(g) Requires all disaster projects to follow the CDBG requirements if there is a conflict.
   Example: USDA and FEMA had different rules for procurement, Davis-Bacon and environmental reviews. FEMA does not take advantage of the

exempt level of environmental review for restoration and repair, does not follow the 8-step process related to work in a flood plain, and has another interpretation of compliance with Davis Bacon Acts. In projects where ORCA provided the match (i.e. FEMA's Hazard Mitigation Grant Program) this has been an issue in documenting compliance.

(h) Eliminates the match requirement for all sources of disaster funding

Example: FEMA repeatedly changed match requirements. While Texas is grateful to have received additional funds from FEMA related to the recovery the jumps from 25% match to 10% match to no match did cause many administrative budget and performance statement amendments because match and leveraging were prioritized for funding consideration in the non-housing program.

(i) Fixes the duplication of benefits problem that resulted in a gap in disaster assistance.

Example: In Texas, Hurricane Rita victims used funds from FEMA to make emergency repairs to their houses, such as purchasing tarps to place over the roof. When we came in later with CDBG housing assistance money, the duplication of benefits prohibition in the Stafford Act deducted the FEMA money from the housing assistance and created a gap in funding. More of a TDHCA issue. ORCA was asked to pay for power lines damaged by Hurricane Rita. ORCA had to determine why insurance was not provided for and ensure that those costs were not reimbursed from other sources. ORCA continues to track what has been covered by FEMA to ensure our funds are not duplicated.

(j) Requires the Army Corps of Engineers and other federal permitting agencies to prioritize projects in the disaster area

Example: Required federal permits are being delayed in excess of 12 months for disaster projects. ORCA is funding the repair of over 25 bridges related to damage from Hurricane Rita. According to the Army Corp of Engineers most will need 404 permits that are estimated at 12-18 months for approval with no possibility for prioritization to any other project needing a 404 permit.

11/1/05

Supplemental Federal Appropriations - The State of Mississippi
Hurricane Katrina Recovery and Rebuilding

Congress has appropriated $62.3 billion for Hurricane Katrina response efforts. As of October 20, 2005, $10.3 billion has been allocated for Katrina activities in Louisiana; $6.2 billion has been allocated to activities in Mississippi, and $1.5 billion to activities in Alabama. Of the $62.3 billion, $44.3 billion has not been spent yet for Katrina expenses.

Some are proposing re-appropriating the unallocated FEMA funds for other purposes. But even though some of these funds have not been allocated, they will be spent for purposes required by federal law. For example, the federal government pays for debris removal, but only a third of the 44 million cubic yards of debris has been removed in Mississippi. Local governments will not be able to enter into contracts to rebuild public utilities and local roads without available funding in the Disaster Relief Fund. Given the scope of the disaster, all of the Disaster Relief Funds will be spent in the coming months for reimbursements required by the Stafford Act.

Mississippi needs additional federal assistance beyond that required by the Stafford Act in order to fully recover from the unprecedented destruction and to mitigate against future disasters. $8.418 billion of this money will be spent in FY 06 or FY 07.

Total Request, including the money already appropriated (see above) and for years after FY 07 - $33.858 billion over ten years

Total FEMA Disaster Relief Fund cost estimate in Mississippi (already appropriated) - $19.26 billion (Of which $6.2 billion is already allocated to work in Mississippi, so an additional $13 billion from already appropriated funds.) No new appropriation is needed for this account.

Total Net New Appropriations Needed in Mississippi over ten years, excluding agriculture disaster assistance and repairs to federal property - $14.598 billion (transportation infrastructure, environmental restoration, health care, human services, law enforcement, and economic development)

Of this $14.598 billion, the total request for new appropriations in FY 06 and FY 07 - $8.418 billion

Note: These requests do not include needed funds for agriculture disaster relief and repairs to federal property.

11/1/05

Anticipated FEMA Expenditures

The following is an estimate of how the $19.3 billion in FEMA Disaster Relief Funds will be spent in Mississippi. The information is derived from FEMA estimates and state/local data.

Public Assistance

Category A – Debris Removal - $800 million
Category B – Protective Measures - $120 million
Category C – Roads and Bridges - $40 million (excluding USDOT funds)
Category D – Water Control Facilities - $5 million
Category E – Public Buildings - $800 million
Category F – Public Utilities - $750 million
Category G – Other Facilities - $20 million
Subtotal: $2.535 billion
Misc Costs associated with Administration (2.5%) - $65 million
Public Assistance Total: $2.6 billion
($288 million obligated as of 10/17)

Individual Assistance

Disaster Housing Assistance - $4 billion
Mobil Homes (30,000 Mobil Homes/Travel Trailers) - $785 million
Disaster Unemployment (30% of 150,000 unemployment claims @ $210/week for 26 weeks) - $250 million
Inspection Services - $20 million
Crisis Counseling - $30 million
Other Needs Assistance - $575 million
Subtotal: $5.66 billion
Mission Assignments (non-administrative) - $1.5 billion
Individual Assistance Total: $7.16 billion
($575 million disbursed as of 10/14)

Administrative Costs

Mission Assignments - $3.5 billion
Other (Travel, Supplies, Personnel, etc.) - $2 billion
Subtotal: $5.5 billion

Homeowner Relief

Aid to homeowners outside of the pre-Katrina flood plain without flood insurance through a reformed Hazard Mitigation Grant Program - **$4 billion**
(35,000 homes @ an average grant of $115,000 with a maximum of $150,000)

11/1/05

Mississippi Request for Supplemental Appropriations
(Beyond FEMA Disaster Relief Fund)

Environment
Corps of Engineers/EPA/USDA: $600 million for water/sewer infrastructure
Corps of Engineers: $1.38 billion for coastal restoration in years 1 and 2
Additional $6.04 billion over ten years

Financial Assistance/Health Care
HHS (CMS): $700 million (estimate) for 100% FMAP in the Medicaid program through December 31, 2006; this could also come in the form of a "recovery grant;" additional funding for evacuee Medicaid costs and uncompensated care pool

Energy
HUD (CDBG): $325 million to provide assistance to the ratepayers of electric and gas utilities in the disaster area to prevent massive rate increases which would impede economic development efforts.

Department of Energy: $300 million over four years to establish an Integrated Gasification Combined Cycle Plant to strengthen the reliability of the pipeline pumping stations in Collins, Mississippi.

Labor/Workforce Development
DOL (Unemployment Insurance Trust Fund): $488 million to the state UI trust fund to mitigate the large increase in unemployment claims (in addition to $85 million already approved)

DOL (National Emergency Grant): $250 million for workforce training capacity building, direct training and temporary employment

Law Enforcement
Department of Justice (State and Local Law Enforcement Assistance): $20 million to hire 500 new police officers for the affected areas and in areas which have significant increases in population due to evacuees

Department of Homeland Security: $250 million to establish a system of interoperable communications

Interior
Department of Interior: $55 million to restore damaged or destroyed historic buildings

Economic Development
Department of Commerce (EDA): $150 million

Department of Commerce: $25 million for the state-established Small Business Emergency Bridge Loan Program

11/1/05

HUD (CDBG): $150 million for economic development purposes

USDA (Rural Development Community Facilities Grant): $150 million

EPA: $1 million for Remote Sensing and Geographic Information Systems

Transportation
Federal Highway Administration: $695 million for repair of Federal Aid Highways (additional $45 million needed for State-Aid Road repairs)

USDOT: $500 million for restorations and improvements at the State Port of Gulfport

USDOT: $900 million in incentives for the relocation of the CSX railroad away from the flood zone

USDOT: $50 million in improvements necessary for a transload delivery center for rebuilding supplies

USDOT: $250 million for a new East-West corridor in Harrison County, Mississippi to replace US 90 as a thoroughfare.

USDOT: $187 million for the construction of the SR 601/Canal Road project which will improve access to the Port of Gulfport while providing a hurricane evacuation route to I-10 and eventually I-59.

Education
Department of Education: $441 million for K-12 education needs beyond costs eligible for FEMA reimbursement

Department of Education: $111 million for Institutions of Higher Learning and $9 million for Community Colleges (primarily to meet new needs for student financial aid)

National Science Foundation: $15 million to minimize disruption of ongoing research repair of research infrastructure and historical collections of data and specimens

Housing
HUD: $150 million in additional funding for the HOME program

USDA: $90 million for the Section 502 Rural Development Direct Loan and Guaranteed Loan programs

USDA: $26 million for the Section 504 Rural Development Direct Loan and Direct Grant programs.

Note: The State's proposal also includes $4 billion out of the FEMA Disaster Relief Fund to provide a 90% federal share of grants capped at $150,000 to homeowners who lived

11/1/05

outside of the pre-Katrina flood zone who did not have flood insurance yet their houses were severely damaged or destroyed. These appropriations, along with increasing the state's allocation of low-income housing tax credits, the implementation of already approved waivers by USDA and HUD, and enhanced access to mortgage revenue bonds will help mitigate the housing crisis.

Human Services
DHHS: $150 million in additional funding for the Social Services Block Grant program

DHHS: $100 million in additional funding for the Child Care Development Fund program, including restoration of child care infrastructure

DHHS: $50 million in additional funding for Head Start services and facility renovation

DHHS: Enhanced support for LIHEAP

Agriculture
TBD – Set by national agriculture policy rather than state cost estimates. In addition to Farm Service Agency crop assistance funding, the agriculture disaster assistance should include timber, poultry and dairy assistance. The package also should include Fisheries disaster assistance through the Department of Commerce.

Repairs to Federal Infrastructure
TBD – Information is not available to the state.

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May 29, 2009

The Honorable Senator Mary Landrieu
Chairman, Ad Hoc Subcommittee on Disaster Recovery
340 Dirksen Senate Office Building
Washington D. C. 20510

Re: The role of Community Development Block
Grant money in Disaster Recovery.

Dear Senator Landrieu,

Thank you again for your ongoing efforts on behalf of Louisiana citizens who suffered losses from past hurricanes. I had the privilege of appearing before your subcommittee on May 24th 2007 on behalf of the Citizens' Road Home Action Team (CHAT). CHAT's founder Dr. Melanie Ehrlich was an invited speaker at the referenced hearing you held this week. I would like to add my own comments for the record and suggestions for consideration as you continue your work on these issues.

First, unfortunately, problems with the Road Home Program persist. A thorough understanding of what went wrong with the program is essential to avoiding such mistakes in the future. Furthermore, the means exist to rectify these problems as the program winds down so that thousands of Louisiana residents who were short-changed in the process, or should have received grant money and got none, may still be helped. There is a certainly a need for infrastructure funding that is fast, certain, and not dependent on dollars intended for residents. But there is also a crucial need for the protection of grant beneficiaries from the careless implementation of CDBG funded programs by state administrators and private concerns whose goals are not invariably the same as those of people who have lost their homes and are in need of fair compensation or rehabilitation assistance that is swiftly provided.

It is well known that an ill conceived contract (no requirement for best practices, no meaningful benchmarks, no performance measures, or penalties for poor performance) between ICF International (ICF) and the state of Louisiana left that private concern with near absolute power over the design and implementation of the program. The poor oversight by the Louisiana Division of Administration (DOA) and the Office of Community Development

(OCD) over ICF, whose primary concern was maximizing billing,[1] has never been adequately addressed by two successive state administrations. This, despite being apprised of numerous problems in considerable detail by individuals, former employees and citizens groups. To the contrary, the state all too frequently ratified de facto procedures that placed the needs of ICF and the state over applicants and were inconsistent with LRA policy.

ICF complicated what should have been a simple process for grant determinations, including property evaluations, undermined program reforms that were intended to benefit grant applicants, and ran a self-serving appeals process that allowed it to "bury" files and ratify its own bad decisions. ICF decisions then were all too often rubber stamped by OCD, even in the face of evidence of clear error. To my knowledge, despite repeated requests, neither the state nor ICF has ever had or provided a set of written standards for review on "appeals," let alone one consistent with LRA policies and program rules.

I raise these issues not only because it is still not too late to help those who should have received the benefit of this past CDBG grant funding and might still be helped with the remaining funds, but because as part of the goal of making future funding more flexible, reliable and efficient for states, it cannot be overstated that adequate safeguards and protections are needed for those the funding is intended to reach. Future federal legislation should not permit any state working with CDBG funds to insulate itself or private contractors from liability for poor performance as the state and ICF did here.

It is apparent when the state, aided by attorneys hired by ICF, designed the program, every effort was made to preclude notice and an opportunity for hearing in the grant process, including especially during the muddled and ever-changing appeals processes where such was most needed. Such an approach precludes any independent check on the administration of grants and denies grant recipients any meaningful avenue to obtain independent review and relief from bad decisions. Since ICF was allowed to act as its own reviewing judge of the first instance on all appeals, what hope did grant recipients have that ICF would acknowledge and fix its own mistakes that were the result of incompetence and little or no quality control or consistency in the grant determination process?

Protecting homeowners in future CDBG funding is not difficult. I strongly urge the committee consider a provision in future funding requirements that protects the right of grant recipients with the right of judicial review of final decisions. It certainly could and is being argued by myself and others in pending cases that such a right now exists under state law and the CFR provisions that provided the original CDBG grants that made the Road Home Program possible. Federal Register, Vol. 71, No. 29, p. 7668 provides that activities carried out by states in administering disaster recovery grant money are to be undertaken "subject to state law."[2]

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[1] ICF seems to have added unnecessary hurdles and steps in the process, all of which generated more hours and invoices that the state was obligated to pay.

[2] La. R.S. 49:964 allows for judicial review of a final agency decision. The statute sets forth in pertinent part:

A. (1) . . . [A] person who is aggrieved by a final decision or order in an adjudication proceeding is entitled to judicial review under this Chapter whether or not he has applied to the agency for rehearing, *without*

You would think this would not be necessary but for the opposition that I have seen from the state to basic principles of due process and equity in rectifying past errors. Unfortunately, the state of Louisiana, in the administration of the Road Home Program and in court actions that have sought judicial review of final decisions has consistently opposed the right of access to the courts. It is astonishing after all your efforts and that of the Congress to provide funding for people to return and rebuild after Katrina and Rita to hear lawyers for the Louisiana Attorney General's Office argue in court that the federal government intended this money for the "state," not the people and that because the RHP is a "giveaway" program the state does not have to be fair; that if the state so chose it could use the money to rebuild the superdome, or for any other purpose. Because of this, the state contends it has no duty to give any funds to any affected homeowner or to be consistent in the distribution of grants. All of this is to justify the state's further argument that no state court has any authority whatsoever to correct decisions in any case, no matter how egregious, arbitrary or capricious. In sum, the state claims the absolute right to ignore its own rules, change the rules at its convenience, and make gross errors without recourse to anyone other than its own bureaucracy. Had I not personally heard these arguments and seen them in pleadings in several cases, I would not have imagined that government officials would defend such an absurd and unfair position.[3]

What the Stafford Act can and should allow in the future, in no uncertain terms, is that when CDBG grant money is entrusted to states for the benefit of citizens, at the end of the day every person who receives a grant who has been aggrieved should be entitled to a fair count by way of a hearing before an administrative law judge, if requested and/or independent judicial review. That doesn't mean that everyone must or will seek such a review. If the state does its job properly (and future contractors are held to strict performance measures and made to understand they are working for the benefit of grant recipients, not just themselves) there will be few who need to resort to judicial review. I assure you this is not a plot to create work for attorneys. There is little incentive for lawyers to take such cases as fees would be modest and few and far between. But in the absence of some protection, it will be harder to prevent future administrations from again doing what has happened here. No independent check at the

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limiting, however, utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy and would inflict irreparable injury. By not providing for a "hearing" as part of the process in RHP appeals, the state apparently hoped to preclude any judicial review, despite federal and state precedent to the contrary. The right of judicial review of administrative decisions is presumed to exist, *see e.g. Delta Bank & Trust Co. v. Lassiter,* 383 So.2d 330, 335 (La.1980); *Bowen v. Doyal,* 259 La. 839, 845, 253 So.2d 200, 203 (1971); *Moity v. Firefighters' Retirement System,* 960 So.2d 158 (La. App. 1 Cir. 3/23/07).

[3] To my knowledge, the first state court to expressly rule on this issue did so last Monday in a case my office is handling, *Dandridge Versus The Office Of Community Development,* No. 566,909, Division 8, 19th Judicial District Court For The Parish Of East Baton Rouge, wherein the state's exceptions of no cause or right of action to our petition for judicial review were overruled. I expect we will have to continue to fight this out in the court of appeals because the state is unwilling to acknowledge this right when it should have been protecting it from the outset. Unfortunately this is not the only way, or the worst, in which the state has discouraged any independent review of its grant decisions, including telling people in their closing documents there is no right of judicial review and threatening them with attorneys fees if they attempt to go to court and are unsuccessful, provisions I believe will not survive Constitutional challenge.

future administrations from again doing what has happened here. No independent check at the state level for future recovery programs means there will be no incentive to avoid poorly run programs and no requirement for transparency and accountability or effective oversight. The right of judicial review provides the necessary last means of protecting citizens who have not been fairly served by government or poorly performing private concerns entrusted with CDBG funding.[4]

Finally, as you well know, one of the biggest problems post-Katrina was the difficulty getting citizens back to areas with wrecked infrastructures and the management of HMPG funds by Louisiana and the federal government, a point raised in my statement two years ago before your committee. Much of Louisiana's infrastructure, particularly New Orleans, is still a mess. Mississippi faired better but it also clearly benefitted from having the inside track. Compounding the problem is the disastrous way federal HMPG funds were handled in Louisiana was a horrifically squandered opportunity. Resources were mismanaged for far too long by both federal and state officials and funds that were desperately needed by people so they could elevate before they rebuilt are only now trickling out, a result of an insistence by the state on using concepts that originated with ICF and OCD that did more harm to mitigation in Louisiana than good. Because these funds did not go out first, thousands rebuilt homes on slabs at grade and did not elevate because they could not afford to do so. CHAT has repeatedly urged the state not to squander CDBG funds that should go to fully funding all compensation grants first on a "too little, too late" mitigation program that is window dressing for a failed serious hazard mitigation effort.

Thank you again for your time and considerations.

Sincerely,

Frank A. Silvestri

FAS/lsb

cc: Paul Rainwater
Louisiana Recovery Authority

[4] Additional remedies for grant recipients who have to turn to court for relief at the end of the day for poor performance by the state or the contractor such as attorneys fees for successful litigants in such cases would provide added incentives to those entrusted with federal funds to get it right the first time and may be the only way for low and middle income grant recipients to obtain representation. But even absent these, guaranteeing the right of judicial review is an essential minimum that ought not to be in doubt or subject to challenge as the state continues to do with the Road Home Program.

Supplemental comments of Karen Paup, co-director, Texas Low Income Housing Information Service, before the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Government Affairs, United States Senate.

Status report on the use of Community Development Block Grants (CDBG) funds to support disaster recovery along the Gulf Coast from the 2005 and 2008 hurricanes

June 3, 2009

Chairwoman Landrieu posed a series of questions to panelists testifying before the committee March 20, 2009 and invited supplemental comments. What follows are my supplemental comments.

Question: How should we allocate money in the wake of a hurricane? Should it be on the basis of the number of houses lost? The number of businesses lost? What should be the formula?

Response: I set forth in my written comments a recommendation that funds allocated by the federal government for post-disaster relief be provided in the form of two block grants.

The first program or block grant would be known as the Community Facilities Restoration Block Grant and would provide funding for the restoration of public infrastructure, reimbursement of costs associated with storm cleanup and community economic development activities.

The second program or block grant would be known as the Affordable Housing Restoration Block Grant. This grant would provide funds over and above those provided under the Stafford Act to achieve the primary congressional goal of ensuring citizens are able to obtain a decent affordable home in a quality community. CDBG income requirements should not be waived for the housing program and requirements should be set to prioritize serving lower income households, with income less than 50% and 30% of the area median.

We strongly believe that the primary objective of the country's disaster relief policy should be that every citizen who survives a disaster be able to obtain a decent, affordable home in a quality community. We emphasize that the restoration of housing for our citizens should be the primary goal of disaster relief and that the secondary goal should be the restoration of public infrastructure and the economic activity of the communities that are affected by the disaster.

Therefore, Congress should devise a formula that would provide a sufficient allocation to fund the restoration of housing that would not be restored otherwise due to insufficient insurance recovery or an inability on the part of the housing owner to finance repairs under the SBA loan program.

Question: I would like to hear more about the $65,000 cap and how Texas feels about that.

Response: As I stated in my written testimony because insufficient funds were allocated by Congress to fund the restoration of all of the housing destroyed by Hurricanes Rita, Ike and Dolly, Texas was forced to adopt a policy which restricted the amount of funds available to individual homeowners initially to a $65,000 maximum (later raised to $70,000).

This treated hurricane survivors in Texas a substantially different manner than hurricane survivors in Mississippi and Louisiana where congressional allocations permitted a more realistic level of benefits to rebuild destroyed housing.

The end result in Texas is that much of the housing that is being rebuilt under the CDBG disaster recovery program is manufactured housing, which in our opinion is less durable and more likely to suffer additional damage in future storm events. We have noted to the State of Texas our concerns regarding the quality of the housing that the state is rebuilding under the CDBG disaster recovery program. Based on our review of the plans and specifications being utilized under the state program the quality of building materials is insufficient to guarantee the long-term viability of the reconstructed homes, the houses themselves are quite small and possibly will place families in overcrowded situations, and the design and construction materials utilized result in houses that are not in keeping with the existing character of the neighborhoods in which they are located and are thus likely to stigmatize the residents as living in "government housing."

Question: Is the Community Development Block Grant program the right federal program for recovery? if not, what is the right program?

Response: We believe that much about the Community Development Block Grant program makes it an appropriate vehicle for directing disaster recovery funds. However, at least in the state of Texas, traditional use of CDBG funds has made the use of disaster recovery CDBG funds less effective in helping individual families restore their homes.

Texas' exclusive focus on infrastructure development in administering the state's regular (non disaster) CDBG program has created a presumption on the part of regional and local government entities charged with allocating funding that disaster recovery funds are also exclusively intended to benefit local governments to restore or develop public infrastructure. It is for this reason that we recommend the creation of two separate block grants, one for housing and one for community facilities, to be used for disaster recovery. These block grants could be created as a subset of the Community Development Block Grant program.

If the two block grant approach was adopted, and allocations made by Congress for housing and community facilities purposes based on actual disaster reconstruction needs, then the diversion of funds needed to restore housing to other uses could be eliminated.

We disagree with the testimony provided by the State of Texas to the Committee regarding the waiver of environmental rules associated with CDBG funds. While there should be a process to allow environmental review of entire neighborhoods, there clearly remain important reasons for the environmental review process, especially to protect the taxpayer and residents' interest from ending up with a home exposed to environmental hazards.

Question: How can HUD improve the programs administration?

Response: I set out in my written testimony a recommendation suggesting the establishment of a new HUD Office of Disaster Preparedness and Recovery. We strongly recommend that HUD undertake the duties that we suggest for that new office in our testimony.

Question: How can states improve their own administration?

Response: As I outlined in my testimony I have concluded that the State of Texas acted reasonably prudently, given the severe funding restraints, in establishing its administration of housing programs to assist Hurricane Rita survivors. The state should have followed the same template as it designed its programs to assist to survivors of Hurricanes Dolly and Ike. Instead, for reasons I detail in my written testimony, the state essentially abdicated its responsibility for administration of CDBG disaster relief funds to regional and local government entities which demonstrably lack the capacity to successfully deliver housing assistance to the hurricane survivors.

HUD allowed this to take place by approving a CDBG disaster recovery plan submitted by the state that fails to provide such critical details such as what funds will be spent on, who the program beneficiaries will be, and who will administer the programs

Question: Could Congress provide more legislative instruction to the agency about this program?

Response: Yes. Congress needs to provide clear instructions to HUD to ensure that housing programs undertaken with CDBG disaster relief funds are efficiently and effectively administered. HUD has been prone to waive the low- and moderate-income beneficiary requirements and to approve, in the case of the state of Texas, a plan that fails to delineate who will benefit from the funds, how the funds will be administered, and what programs will be undertaken.

I am especially concerned that HUD has essentially walked away from its obligation to ensure that states and localities administering CDBG disaster relief funds act in a manner that affirmatively furthers fair housing. As I have pointed out in my written testimony I believe that local government decisions to deliberately underfund rental housing assistance and to fail to target funds to low- and moderate-income residents for housing in particular are being used specifically to deny people of color the ability to continue to reside in the communities they lived in at the time of the hurricanes.

Question: Have housing programs been designed to effectively assist homeowners and renters alike?

Response: Renters are at a considerable disadvantage in the housing programs undertaken with CDBG disaster funds in Texas. They have systemically been provided only short-term assistance while needed production of affordable rental housing is not undertaken.

This situation has become painfully clear under the locally-based funding allocation decision process adopted in Texas for Hurricane Ike.

While 57% of the housing stock in Galveston at the time of the hurricane was renter occupied and an even greater percentage of the low- and moderate-income population relied on rental housing, the locally directed process of deciding what portion of CDBG disaster recovery funds to devote to rental housing has grossly ignored the needs of low and moderate income renters.

According to a June 1, 2009 article in the Galveston Daily News only $7 million of the available $160.4 million available to Galveston for housing is recommended for the restoration of privately owned rental housing. Only $25 million has been earmarked for the restoration of 569 public housing units. The latter is less than $44,000 to rebuild each unit of demolished public housing a figure that will prove far short of funding the reconstruction of these badly needed units. The $7 million of funds the city has decided to make available for private rental housing reconstruction would only finance the construction of about 100 units under the most optimistic cost scenarios.

The result of these policies will be that thousands of low- and moderate-income Galveston residents will be denied access to affordable rental housing in the city and will never be able to return home.

Question: Have special needs populations such as the elderly and the disabled and others been included in the way they should have?

Response: Absolutely not. This is one of the major recommendations I have for the committee. As I stated in my written testimony, I recommend a specific appropriation to offset the costs of the provision of permanent Section 8 Housing Choice Vouchers to households comprised of pre-disaster renters or owners who are elderly persons, persons with disabilities or single parents with children with incomes below 50% of the area median family income, who choose not to rebuild their homes, who choose to move to another community, or if they were renters, who choose to continue in the same community.

When disaster impacts extremely poor households there needs to be a conscious policy decision at the federal level as to whether it is adequate to simply restore them to some equivalent ill-housed, socially undesirable and impoverished condition or whether we as a nation have an obligation to address their long-term housing needs on a permanent basis.

We know how to solve these housing problems. We have programs that do so for millions of Americans. The Housing Choice Voucher program is the most efficient solution.

When a poor family that was ill housed or marginally housed prior to a disaster loses their housing, they should be provided a clear, stable, permanent, decent and effective type of housing assistance. The reliance upon temporary programs like FEMA's assistance and upon temporary HUD voucher programs is morally unacceptable. We lift the family out of shelter poverty for a brief period of time through temporary assistance only too often to allow them to fall to a level more wretched than their pre-disaster condition. The focus with rent vouchers upon temporary housing assistance is completely inappropriate for the poor. It is based upon the fallacy that the market will quickly restore low-cost rental units and that a family in long-term poverty will magically rise out of poverty in the wake of total devastation and massive personal and social trauma.

I have attached a paper chronicling the experiences of several elderly and disabled hurricane survivors who have relocated from Louisiana to Texas as a result of Hurricane Katrina. This study, undertaken by faculty at the University of Texas at Austin School of Social Work along with my organization, documents just how poorly special needs populations fare under existing disaster recovery programs.

Thank you for the opportunity to provide answers to these supplemental questions.

June 8, 2009

Senator Mary Landrieu
Chairman, Subcommittee on Disaster Recovery
United States Senate
Committee on Homeland Security and Governmental Affairs
Washington, DC 20510-6250

re: May 20, 2009 Hearing on CDBG

Dear Senator Landrieu:

Thank you for the opportunity to provide additional information on the captioned hearing regarding ways to achieve greater fairness in the allocation and distribution of CDBG funds. You pointed out in the hearing that the first and largest appropriation contained an arbitrary requirement that no state would receive more than 54% of the $11 billion total. This bore no relationship to proportional need, but simply was inserted to ensure that Mississippi would receive all or nearly all of what it asked for in the first appropriation.

As you also noted the conventional CDBG programs weigh specific variables to calculate appropriations. An explanation of CDBG formulas for entitlement and non-entitlement jurisdictions is set forth below.

> HUD uses two basic formulas, known as Formula A and Formula B, to allocate CDBG funds to entitlement communities. A similar "dual formula" system allocates funds to states. For entitlements, Formula A allocates funds to a community based on its metropolitan shares of: (1) population, weighted at 25 percent; (2) poverty, weighted at 50 percent; and (3) overcrowding, weighted at 25 percent, times appropriations. Formula B allocates funds to a community based CDBG Formula Targeting to Community Development Need on: (1) its share of growth lag, weighted at 20 percent; and its metropolitan shares of (2) poverty, weighted at 30 percent and (3) pre-1940 housing weighted at 50 percent times appropriations. HUD calculates the amounts for each entitlement jurisdiction under each formula. Jurisdictions are then assigned the larger of the two grants. That is, if a jurisdiction gets more funds under Formula A than Formula B, its grant is based on Formula A. With this dual formula system, the total amount assigned to CDBG grantees has always exceeded the total amount available through appropriation. To bring the total grant amount allocated to entitlement

communities within the appropriated amount, HUD uses a pro rata reduction. In FY 2002, for example, the pro rata reduction was 11.43 percent.

Current Formula, 2004

Entitlement Communities		States (Nonentitlements)	
Formula A	Formula B	Formula A	Formula B
25% * population 50% * poverty 25% * overcrowding	20% * growth lag 30% * poverty 50% * pre-1940 housing	25% * population 50% * poverty 25% * overcrowding	20% * population 30% * poverty 50% * pre-1940 housing
Metropolitan denominators except for growth lag. Grant is larger of two formulas less a pro rata reduction.		State nonentitlement total denominators. Grant is larger of two formulas less a pro rata reduction.	

http://www.huduser.org/Publications/pdf/CDBGAssess.pdf

This HUD report examines how then-existing formulas cause relatively low need communities to receive very high per capita grants, while other relatively high need communities get very low per capita grants. The report looks at four alternatives to bring greater equity to the allocation process. At the end of the report are a series of comparisons of block grants and per capita awards for metropolitan regions across the country. These show how changes in the formula enable HUD to better target CDBG funds to areas with greater poverty, older houses, and greater overcrowding.

This report illustrates that a quantitative approach, if properly structured, can achieve a relatively equitable per capita distribution.

In a catastrophic disaster, Congress should consider using some quantitative method in allocating recovery funds to ensure greater equity than what occurred in Hurricane Katrina. A set of variables such as those you identified in the hearing would make greater sense than merely leaving it up to the decision of the individual Governor.
In general, these included:

- lives lost
- people displaced
- homes severely damaged or destroyed
- rentals severely damaged or destroyed
- hospitals damaged or destroyed
- schools damaged or destroyed
- flood insurance claims
- SBA loan applications
- total insured loss

- total uninsured loss
- jobs lost

Additional criteria should be included to adjust for low-income needs, including:

- population in poverty
- female headed households with children under 18
- housing more than 50 years old occupied by a household in poverty
- overcrowded housing, using HUD criteria

Congress should require that certain national priorities are carried out if the federal treasury pays for the recovery of a multistate disaster. These priorities include, without limitation:

- concurrent action to restore rental housing as well as owner-occupied housing
- priority should be given to low-wealth households, and special needs populations such as the elderly and disabled

Mr. Tombar testified that Congress gives direction to the Secretary to prioritize the use of funds when making a distribution, but HUD has interpreted the Katrina appropriation to in effect surrender any right to refuse a state's proposed use of disaster CDBG funds. This forfeits any federal power to assure that national priorities are fulfilled.

One long term priority of the CDBG program is to remedy our nation's chronic disinvestment in lower-income households and communities. This is expressed in the requirement that a specified percentage of CDBG funds benefit persons of low and moderate income. In the first Katrina CDBG appropriation, Congress allowed HUD to reduce this requirement from 70% to 50%, or to eliminate it altogether on a showing of compelling need. This requirement should not be permitted to be waived in the manner done by the state of Mississippi; because the chronic problem CDBG was designed to address becomes acute in a catastrophic setting, increasing the justification to focus on lower-income populations who lack an economic safety net. A priority expressed by Congress in the use of disaster CDBG funds was the requirement that specified portions be used to restore affordable rental housing, as was the case in the Second Katrina appropriation. This was a sound policy choice and should be included in all catastrophic CDBG appropriations.

In the future, disaster CDBG grants for direct housing repair and compensation should be appropriated separately from other needs, such as infrastructure and economic and community recovery. In this way there is less risk that a state will shortchange the housing recovery to accomplish a prized infrastructure or economic development goal. It also will discourage states from "padding" their claims of indirect housing recovery with infrastructure programs that also significantly benefit businesses, such as Mississippi's $640 million sewage and water infrastructure program, its $360 utility rate subsidy program, and its $80 million windpool rate program, all three of which benefitted business owners as well as residents. Separate criteria for each of these grants increase the chances that the amounts awarded will actually go to restoration, rebuilding and recovery, instead of being diverted to non-disaster-related expansion. In addition, it will be easier for the federal government to analyze and coordinate the multiple funding streams if the housing grants are separated from grants for other purposes.

We urge you to re-examine the assertion that disasters vary so greatly that it is impossible to construct some quantitative allocation process that will address recovery needs. If a family is rendered homeless, it doesn't matter whether it was by ice-storm, hurricane, earthquake or flood. That family needs housing, and some per-capita measurement can be devised that will ensure greater equity in the allocation of federal disaster block grant appropriations than occurred in the case of Hurricane Katrina. If a catastrophe has unique characteristics that require special increases for a community to recover, for example, the protracted flooding in New Orleans, then the State can make the case for upward adjustments. But the baseline should not vary as dramatically as it did in the case of the 2005 Katrina appropriation.

There are several problems with allowing a state to present a plan, letting Congress decide how much of it would be funded, and granting the state virtually carte blanche in setting the priorities:

- The state may neglect or delay solving permanent problems knowing the federal government will cover the cost of a temporary solution. For example in Mississippi, Governor Barbour neglected and delayed solving the subsidized rental housing problem, while FEMA picked up the tab for temporarily housing displaced renters for over 3 years.
- Two or more states may develop dramatically different eligibility criteria for disaster assistance that produce inequitable results. This is an unacceptable outcome for a federal response to a national disaster funded by the US Treasury and supervised by a federal agency. An American citizen's disaster recovery should not dramatically differ merely on account of the state where he or she resides.
- States or local governments will find ways to steer greater money to infrastructure and economic development at the expense of housing priorities.

One reason Mississippi had $600 million to divert to the State Port is that Mississippi excluded compensation for over 7,300 homeowners because their loss was due to wind damage. Another reason is that Mississippi under-funded its small rental assistance program, which will restore only about 4,800 out of 13,800 severely damaged small rental units.

- Undue political influence can produce inequitable results and unfairly deny or delay relief to the residents of the politically disfavored states.
- Overall transparency and accountability suffers if virtually unchecked discretion is given to a State Governor over a sum that easily may equal that state's annual budget.

HUD's 2-year re-examination of waivers to state action plans occurs too late in the process for any meaningful course correction to occur. For example, Mississippi's waiver of the 50% LMI benefit on its Phase I program was granted on the assumption that the state would come close to the 50% target. Instead it fell dramatically short, spending only 28% of the funds on LMI households in the largest and most generous compensation program. An earlier re-examination would allow for a course correction before the funds have been depleted.

Thank you for the opportunity to submit this information and with regards, I am,

Very Truly Yours,

Reilly Morse

Reilly Morse
Senior Attorney