Disaster Housing Programs

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The Federal Emergency Management Agency (FEMA) leads the federal government's efforts to prepare for potential disasters and to manage the federal response and recovery efforts following any disaster that overwhelms local and state authorities. FEMA provides immediate, direct financial and physical assistance to those affected by disasters and is responsible for coordinating government-wide relief efforts.

A BRIEF NOTE ON "NATURAL DISASTERS"

A disaster occurs when a hazard, defined as a "source of danger that may or may not lead to an emergency or disaster," overwhelms the ability or emergency services in a local government or a region to effectively respond. A hazard created by technology, such as a chemical spill or atomic bomb, is called a "technological hazard," while a hazard created through natural effects, like a tornado, is labeled a "natural hazard." The likelihood that a hazard will lead to a disaster is called "risk."

The term "natural disaster" is a misnomer because a disaster is created by society's inability to sufficiently prepare for and respond to a hazard, even if the hazard is created through nature. Using the term "natural disaster" implies that a disaster was somehow unavoidable or an "act of God," when in fact disasters are created by the culmination of policy makers' decisions regarding how and where to build homes and businesses, and how to prevent and respond to hazards. Advocates are advised to use the phrase "disaster" alone instead of "natural disaster."

HISTORY

In 1803, a congressional act was passed providing financial assistance to a New Hampshire town that had suffered a large fire – the first example of federal involvement in a local disaster. Until the 1930s, *ad hoc* legislation was passed in response to hurricanes, earthquakes, floods, and other disasters. When the federal approach to disaster-related events became popular, the Reconstruction Finance Corporation and the Bureau of Public Roads were both given authority to make disaster loans for repair and reconstruction of certain public facilities following an earthquake, and later, other types of disasters. In the 1950's, emergency management efforts were housed primarily within the Department of Defense, a series of White House Civil Defense Offices, and state-level civil defense organizations that primarily focused on preparing the population for an eventual nuclear attack. These civil defense coordinators are considered the first "emergency managers" as we know them today.

By the 1970's, emergency management functions were spread throughout the federal government, with the Department of Housing and Urban Development (HUD) taking responsibility for disaster relief. Following the destructive Hurricane Betsy, Agnes, and the San Fernando Earthquake in 1971, the "Disaster Relief Act of 1974" provided HUD with the most significant authority for disaster response and recovery, and firmly established the process of presidential disaster declarations. Still, more than 100 federal agencies remained involved in some aspect of disaster response and recovery.

With no clear federal lead agency in emergency management, state civil defense coordinators and the National Governors Association pushed for the consolidation of emergency management functions into a single agency. Finally, on April 1, 1979, President Jimmy Carter signed Executive Order 12127, merging many of the separate federal disaster-related responsibilities into the newly created FEMA and ensuring FEMA's director would directly report to the president. Through subsequent decades, FEMA worked to standardize and consolidate emergency management standards and the federal government's response to disasters.

FEMA's role was further standardized by the "Robert T. Stafford Disaster Relief and Emergency Assistance Act" (Public Law 100-707), which became law on November 23, 1988. The bill amended the "Disaster Relief Act of 1974" to create the response and recovery system still in place today, through which presidential disaster declaration of an emergency triggers financial and physical assistance through FEMA. The act gives FEMA responsibility for coordinating government-wide relief efforts and provides orderly and systemic federal disaster assistance for state and local governments. Congress' intention was to encourage states and localities to develop comprehensive disaster preparedness plans, prepare for better intergovernmental coordination in the face of a disaster, encourage the use of insurance coverage, and provide federal assistance for disaster-related losses.

As FEMA continued to grow, changes in administrations often resulted in dramatic swings in priorities between preparing for nuclear attack, natural hazards, and after 2001, terrorism. In 2003, FEMA became part of the newly formed Department of Homeland Security (DHS), the FEMA director lost direct access to the President, and many disaster response and recovery authorities were spread to numerous sub-offices in the new agency. DHS sought to utilize remaining FEMA programs to focus on responding to terrorist attacks, and cannibalized FEMA funding to support high-priority programs within DHS. As a result, 75% of available federal emergency management resources were being applied to terrorism-related work. These decisions directly contributed to the failed response to Hurricane Katrina in 2005, which killed over 1,856 people and left tens of thousands displaced and suffering due to an inadequate response by emergency management officials. In response to this well-publicized failure, Congress passed the "Post-Katrina Emergency Management Reform Act of 2006," which elevated FEMA within DHS, protected its funding, and returned its direct access to the President.

In the succeeding years, additional reform efforts occurred, typically following a catastrophic event. After Hurricane Sandy struck the Northeastern United States in 2012, President Barack Obama signed the "Sandy Recovery Improvement Act (SRIA) of 2013," which authorized several significant changes to the way FEMA delivered federal disaster assistance. The "Disaster Recovery Reform Act," (Public Law 115-254) was signed into law in October 2018, after the destructive 2017 hurricane and wildfire seasons. That act further reformed FEMA, increasing the agency's pre-disaster planning process and its overall efficiency. Notably, the act changed the factors FEMA considers when advising a president to issue a federal disaster declaration, so that it must consider a disaster-stricken state's ability to pay for its own recovery along with damage reports and assessments.

EMERGENCY RESPONSE AND COVID-19

FEMA was not initially called upon to coordinate the federal government's response to the COVID-19 pandemic. Instead, the Centers for Disease Control and Prevention (CDC) and the Department of Health and Human Services (DHHS) were placed in charge of the response, in accordance with pandemic-related policies established in the past decade. As the scope of the pandemic became clear and CDC and DHHS capabilities began to be overwhelmed, FEMA was tasked with helping coordinate the federal response.

It should be noted that given the chaotic history of the agency, FEMA personnel and many emergency managers around the country remain fiercely defensive of the agency and extremely apprehensive toward any external attempt to curtail or otherwise marginalize the agency and agency-created frameworks for disaster response and recovery. FEMA priorities are typically slow to change, and conscious of how rapid shifts in political and public consensus about FEMA's role and objectives have directly impacted the agency's ability to respond to disasters. This also has contributed to the agency's reluctance to partner with other federal agencies in areas of conflicting authorities, including disaster housing recovery.

In addition, the agency has significant morale issues and staffing shortages that may impact FEMA leadership's perception of the agency's capacity and the quality of the agency's response. Initiatives in recent years, such as FEMA's efforts to decrease the number of disaster declarations issued each year and provide for state-administered disaster housing programs, demonstrate that FEMA is seeking to respond to capacity issues by devolving administrative responsibilities while maintaining its role as funder. Therefore, it is highly advisable that advocates build and maintain relationships with state and local emergency management agencies and offices *before* disasters occur to ease communication and cooperation with both FEMA and their local counterparts.

As mentioned above, HUD was initially a major player in the world of disaster recovery and response. Today, this history is reflected by the agency regularly allocating long-term recovery funding to disaster-impacted areas. HUD also operates several additional programs focused on housing and economic recovery. While common sense would dictate that the agency would have a larger role in the immediate aftermath of disasters given its experience in housing low-income and vulnerable households, the agency primarily operates within the long-term recovery space, with a few notable exceptions.

FEDERAL PROGRAMS

FEMA

Along with other government agencies, FEMA may provide disaster victims with low-interest loans, veterans' benefits, tax refunds, excise tax relief, unemployment benefits, crisis counseling, and free legal assistance. These resources are available once the president grants a governor's request for Individual Assistance (IA) programs as part of a disaster declaration. FEMA determines whether to recommend that the president approve IA by collecting Preliminary Damage Assessments and looking at the response capability, demographic data, and economic indicators in disaster-affected areas. Disaster housing and community development programs unique to FEMA include:

Transitional Shelter Assistance (TSA). In recent, large-scale disasters, FEMA provided TSA to cover the cost of staying in an approved hotel or motel for an initial period of up to 14 days (which may be extended in 14-day intervals for up to six months). TSA does not cover additional fees, such as resort fees, that hotels may include in the cost of a room. Some participants in the program have been required to present credit cards before being provided access to rooms, in accordance with an individual hotel's policy on incidentals. These costs and requirements constitute major barriers to accessing temporary housing under this program. TSA is funded through the Public Assistance Program, discussed later in this article.

The Individuals and Households Program (IHP). The Housing Assistance provision of the IHP provides financial and direct assistance for disaster-caused housing needs not covered by insurance or provided by any other source. IHP Assistance lasts for up to 18 months, although the impacted state may request an extension that must be approved by FEMA personnel. To receive IHP housing funds, a disaster survivors' home must be shown at inspection to be uninhabitable and require repairs to be made habitable or be otherwise inaccessible due to disaster damage. It is important to note that individuals who were experiencing homelessness before a disaster are not eligible for the majority of IHP programs.

Since at least 1995, FEMA's title requirement has barred many of the lowest-income survivors, including owners of mobile homes and other low-income homeowners who may not have updated title documentation, from receiving the assistance for which they are eligible. After some recent disasters, FEMA allowed survivors to use a declaration form to prove ownership of their home in cases where updated title documents were inaccessible, but these forms were never officially provided to disaster survivors by FEMA. Due to pressure from NLIHC and its partners, the agency recently expanded the list of eligible documentation permitted to demonstrate that a disaster survivor owns or occupies their home.

Four types of housing assistance are available under IHP:

1. Temporary housing assistance, which includes:

   a. *Lodging Expense Reimbursement (LER).* Financial assistance to reimburse for hotels, motels, or other short-term lodging while an applicant is displaced from their primary residence. Funds are awarded for expenses incurred from the start date of the disaster to seven days following the disaster survivor's approval for rental assistance. While LER is similar in concept to the TSA program discussed above, program funding is only available to reimburse disaster survivors for short-term lodging costs that already have been paid. As a result, this program is often inaccessible to disaster survivors with lower incomes, who have less of an ability to pay such expenses up front.

   b. *Rental Assistance.* FEMA may provide for 18 months of financial assistance to rent temporary housing. The initial amount is based on the impacted area's Fair Market Rent (FMR) and covers rent plus utilities typically for two months, although it may also be used as a security deposit equal to one month of FMR. Households may seek Continued Temporary Housing Assistance when alternate housing is not available. Full rental assistance is available for a period of 18 months. FEMA's rental assistance program often is unworkable for low-income survivors because assistance is only provided in 2-month increments and the amount of assistance may not be enough to secure housing.

   c. *Direct Temporary Housing Assistance.* FEMA may provide direct housing assistance when disaster survivors are unable to use Rental Assistance due to a lack of available housing resources. The program is open to renters whose primary residence was destroyed and to homeowners whose primary residence suffered damage above $12 per square foot. Recipients of Direct Temporary Housing Assistance are required to work with a case manager to access alternative permanent housing at the conclusion of the program. Assistance is provided for up to 18 months unless extended at the request of the impacted government and approved by FEMA. Direct Temporary Housing Assistance is not counted toward the IHP maximum award amount and must be specifically requested by the impacted government. Direct Temporary Housing Assistance may include:

      - Direct Lease Program, which allows FEMA to lease directly with existing, non-damaged, rental properties for disaster survivors. In recent years, Direct Lease Programs have been unable to serve many households because it has been challenging to recruit landlords to participate.
      - Manufactured Housing Units provided by FEMA and made available to use as temporary housing.
      - Multi-Family Lease and Repair, which allows FEMA to enter into lease agreements with owners of multi-family rental properties and make repairs to provide temporary housing.
      - Permanent or Semi-Permanent Housing Construction, which allows home repair and/or construction services to be provided in insular

areas outside the continental U.S. and other locations where no alternative housing resources are available, and where other types of FEMA Housing Assistance are unavailable, infeasible, or not cost effective.

2. Home repair cash grants, available to homeowners for damage not covered by insurance. These grants are intended to repair homes to safe, sanitary, or functional conditions. Grants are not intended to return the home to its pre-disaster condition. However, recent FEMA reforms now permit accessibility features needed due to a disaster-created disability, as well as some home strengthening measures to be added.

3. Home replacement cash grants, available to homeowners to help replace a destroyed home that is not covered by insurance.

Other Needs Assistance (ONA): In addition to housing assistance, the IHP includes ONA, which provides financial assistance for disaster-related necessary expenses. There are two categories of ONA: those that do not require a household to have been denied a Small Business Administration (SBA) loan, and those that do require such a denial. “Non-SBA dependent” types of ONA that may be awarded regardless of a household’s SBA status include covering medical, dental, childcare, and funeral expenses. Also included in this category is Critical Needs Assistance, which provides up to $500 to meet lifesaving or life-sustaining needs such as water, food, first aid, prescriptions, infant formula, diapers, consumable medical supplies and durable medical equipment, and fuel for transportation. Assistance that depends on a household being denied an SBA loan or receiving a partial SBA loan that is not adequate to meet needs include funds to repair or replace damaged personal property, repair or replace vehicles, and cover moving and storage costs. State, Tribal, and Territorial governments are required to pay for 25% of ONA costs, while FEMA covers the remaining 75%. Governments can decide to administer the program directly, in tandem with FEMA, or allow FEMA to fully administer the program.

Critical Needs Assistance (CNA). Upon request from a state, tribal, or territorial government, FEMA may provide financial assistance under the ONA to applicants who have immediate or critical needs because they are displaced from their primary residence, or to applicants who need assistance to leave their pre-disaster primary residence to temporarily shelter elsewhere. Immediate or critical needs are lifesaving and life-sustaining items including, but not limited to: water, food, first aid, prescriptions, infant formula, diapers, CMS, DME, personal hygiene items, and fuel for transportation. Eligible individuals are those that register within the CNA eligibility period, can verify their occupancy within the approved area, can show that they have been displaced due to the disaster or are requesting alternative shelter, report damage to their home, and assert that they have critical needs and request financial assistance. In 2022, the CNA assistance cap was raised to $750. This assistance is provided as a one-time award. Unlike other IA programs, funds made available under this program are distributed in a first-come first-served fashion and are available until funds are expended – typically prior to the end of the Individual Assistance application period. While this creates an incentive for disaster survivors to quickly submit applications for assistance advocates should be aware that there is no formal process to amend FEMA applications once submitted, so care should be taken to ensure that applications are fully covering all damages and expenses borne by a disaster-impacted household before submission.

Public Assistance (PA): FEMA provides disaster assistance to state, territorial, tribal, and local governments as well as certain private nonprofits through the PA program. Under the Permanent Work component of Public Assistance, FEMA provides grants to state and local governments to repair roads, bridges, water control facilities, public utilities, public buildings, and parks and recreational facilities (Categories C through G). In addition, PA can be provided to nonprofits to restore damaged facilities, which could include repair funds for public housing agencies. The Emergency Work component of PA aids in the removal of debris and carries out emergency protective measures – which can include emergency mass sheltering (Categories A and B). FEMA generally provides 75% of the cost of PA, requiring the state and subgrantees (for example, counties) to provide the remaining 25%. FEMA has the authority to temporarily modify this cost share ratio under certain circumstances.

While PA funds are typically not able to be utilized for direct housing assistance, the program was used heavily during the COVID-19 pandemic to provide non-congregate sheltering to individuals at risk of death from COVID-19 infection.

During pandemics, congregate sheltering poses a severe risk to individuals experiencing homelessness and people with disabilities, who are more likely to have pre-existing medical conditions. People experiencing homelessness and people with disabilities living in congregate settings were among those individuals hardest hit by the pandemic, suffering from high rates of severe illness and death from coronavirus. Recognizing that non-congregate sheltering may be necessary to protect public health and save lives during the COVID-19 pandemic, FEMA applied its statutory flexibility during the pandemic to offer reimbursements for non-congregate medical sheltering costs under the PA program.

The target populations for FEMA-funded non-congregate sheltering were 1) individuals that tested positive for COVID-19 that did not require hospitalization but needed isolation, 2) people who had been exposed to COVID-19 and needed isolation, or 3) high-risk individuals that needed social distancing as a precautionary measure. To be eligible for FEMA reimbursement, the CDC or state/local public health officials must have required the non-congregate sheltering through an official order, or it must have otherwise been done at the direction of health officials. To learn more, see NLIHC's comprehensive toolkit on FEMA's role in COVID-19 response. All non-congregate sheltering was required to be approved by the FEMA Regional Administrator for such costs to be reimbursed. FEMA funding through the PA program typically covers 75% of eligible costs, leaving governments and nonprofits to cover the remaining 25%.

Studies of COVID-19 mortality show that the utilization of non-congregate sheltering resulted in lower risk of death than other strategies for mitigating the spread of non-congregate sheltering within homeless shelters.

Hazard Mitigation Grant Program (HMGP): To reduce the risk of damage and reliance on federal recovery funds in future disasters, FEMA administers the HMGP. HMGP provides state and local governments funds for long-term mitigation following a federally declared disaster. Nonprofits, individuals, and businesses may apply through their local government. Uses of HMGP include acquiring an individual property in a flood-prone zone and permanently removing the property, raising a home so that flood water flows underneath, erecting barriers to prevent flood water from entering a home, flood diversion and storage, and aquifer storage and recovery. FEMA provides up to 75% of the funds for mitigation projects.

Community Disaster Resilience Zones (CDRZs): Created by the DHRC-endorsed "Disaster Resilience Zones Act" passed in late 2022, CDRZs are census tracts identified by FEMA, in part utilizing its National Risk Index (NRI), as having significant disaster risk and hazard-vulnerable communities. Disaster resilience projects within these areas will be focal point for financial and technical assistance from FEMA and its private, philanthropic, and public partners. The "Disaster Resilience Zones Act" required that FEMA select 50 census tracts while balancing different geographic areas such as coastal, inland, urban, suburban, and rural areas, as well as tribal lands. FEMA designated the first 50 CDRZs in September of 2023 and will be working with its partners to provide support for these communities in the coming year.

NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP) was created in 1968 to make flood insurance available to homeowners for the first time. The “Flood Disaster Protection Act of 1973” made the purchase of flood insurance mandatory for properties in Special Flood Hazard Areas (SFHAs) if the property had a mortgage from a federally regulated or insured lender. To participate in NFIP, a community must adopt and enforce floodplain management ordinances. The NFIP has an arrangement with private insurance firms to sell and service flood insurance.

HUD

Community Development Block Grant Disaster Recovery (CDBG-DR): CDBG-DR funding is provided for presidentially declared major disasters by appropriations acts and is generally tailored to specific disasters. To determine how much a state or local government receives, HUD uses a formula that considers damage estimates and disaster recovery needs unmet by other federal disaster assistance programs such as FEMA and SBA. In addition to any requirements cited in the specific appropriation act, the regular CDBG regulations at 24 CFR 570 apply to CDBG-DR funds. However, CDBG-DR appropriations generally grant HUD broad authority to issue waivers and alternative requirements identified in a *Federal Register* notice issued by HUD following the announcement of the appropriation.

CDBG-DR grantees, usually states, must prepare an action plan to assess housing, infrastructure, and economic revitalization needs and then identify activities to address unmet needs. Public participation in devising the action plan is required. In the regular CDBG program, a minimum 30-day public review and comment period is required. However, in recent CDBG-DR *Federal Register* notices, HUD has reduced the public participation period to a mere 14 days. Advocates stress that more time for public engagement is necessary, especially since the consequences of the final plan will have long-term impacts on low-income households.

The regular CDBG program requires that at least 70% of the funds be used for activities that benefit low- and moderate-income households or those with income at or less than 80% of the area median income. The CDBG-DR *Federal Register* notices regarding funds for the 2017 disasters maintained the 70% low/mod-income benefit requirement; however, most of the major notices between Hurricane Katrina in 2005 and 2016 allowed waivers so that only 50% of the CDBG-DR had to meet the low/mod benefit test. In 2020 FEMA and HUD signed a Memorandum of Understanding that streamlined the use of CDBG-DR funds to pay for portions of FEMA PA projects. Under this new streamlining agreement, only the portion of the project funded directly by HUD CDBG-DR is required to meet CDBG requirements, such as targeting low-income households. Previously, the use of CDBG-DR funding on FEMA PA projects would extend such requirements to the entire project.

Recent *Federal Register* notices have required that at least 80% of the total funds provided to a state address unmet needs within an area designated by HUD as being the most impacted and distressed. They have also required the action plan to propose allocating CDBG-DR to primarily address unmet housing needs and describe how the grantee’s program will promote housing for vulnerable populations, including a description of activities to address the housing needs of homeless people and to prevent extremely low-income households from becoming homeless.

Grantees must submit Quarterly Performance Reports (QPRs) using HUD’s electronic Disaster Recovery Grant Reporting System, showing each activity’s progress, expenditures, accomplishments, and beneficiary characteristics such as race, ethnicity, and gender.

CDBG Mitigation (CDBG-MIT): As part of a new focus on pre-disaster mitigation and preparedness after the destructive 2017 and 2018 hurricane seasons, Congress has begun to appropriate funds under HUD’s CDBG-MIT program. Like CDBG-DR, CDBG-MIT funding is provided for areas that suffered from a presidentially declared disaster and is distributed similarly to CDBG-DR. Program funding is available for mitigation and resiliency projects, defined as activities that reduce the risk to life and property by lessening the impact of a future disaster. These projects are not required to address an existing disaster impact, but rather, areas that are likely to be impacted in the future. Like the CDBG-DR program, the regular CDBG regulations at 24 CFR 70 apply to CDBG-MIT funding subject to waivers and alternative requirements released by HUD in the program's enacting *Federal Register* notice.

The process for CDBG-MIT grantees is also essentially the same as the CDBG-DR program, with the grantee developing an action plan that outlines the planned use of the funds. The plans are subject to public comment and HUD approval. The program requires a 30-day public participation window and specifies a minimum number of public meetings to be held that correspond to the amount of funding allocated to that state. As this program is relatively new, program guidelines and policies can be expected to change as the program develops.

Disaster Housing Assistance Program (DHAP): The aftermath of Hurricane Katrina in 2005 demonstrated that HUD, not FEMA, was best suited to oversee and administer federal disaster housing assistance to people with the lowest incomes. Congress amended the "Stafford Act" to require the federal government to create a disaster housing plan. In 2009, that plan made clear that HUD should play a key role in creating and operating disaster housing assistance programs and recommended that Congress make the DHAP permanent. The 2011 National Disaster Recovery Framework also recommended that HUD, not FEMA, serve as the coordinating agency for delivering housing assistance. However, before HUD can put a DHAP program in place, FEMA must enter an interagency agreement with HUD. In the wake of recent major disasters, FEMA has resisted working with HUD to stand up DHAP programs.

DHAP has been used after past disasters, including Hurricanes Katrina, Rita, Gustav, Ike, and Sandy, to provide low-income, displaced families with safe, decent, and affordable rental homes while they rebuild their lives and get back on their feet. DHAP is administered through HUD's existing network of local Public Housing Agencies (PHAs), which have significant local market knowledge and experience administering HUD's Housing Choice Voucher program.

DHAP provides displaced households with temporary rental assistance, covering the cost difference between what a family can afford to pay and the cost of rent, capped at a reasonable amount. Over the course of several months, families are required to pay a greater share of their rent to encourage and help them assume full responsibility for housing costs at the end of the program. All families receiving DHAP rental assistance are provided wrap-around case management services to help them find permanent housing, secure employment, and connect with public benefits.

DHAP helps fill the gaps that low-income households experience with FEMA's Transitional Shelter Assistance (TSA) and Rental Assistance programs. Many hotels do not participate in TSA, and those that do often charge daily resort fees, ask for security deposits, and require that displaced households have credit cards, all of which are barriers for low-income households. Because disasters generally reduce the amount of available housing stock, low-income renters are often unable to use FEMA Rental Assistance in their communities. If a displaced household relocates, the Rental Assistance amount, which is based on the Fair Market Rent (FMR) of the impacted area, may not be enough to cover the cost of an apartment in a different community.

Rapid Unsheltered Survivor Housing (RUSH): In a major advocacy victory, HUD created the RUSH program during the 2022 Atlantic Hurricane Season to address some of the issues created by the failure to utilize DHAP. In the aftermath of large disasters, the program allocates unused Emergency Solutions Grants (ESG) funding to impacted communities to assist individuals that were experiencing homelessness in the area prior to the disaster and households at risk of homelessness afterward. HUD plans to only deploy these funds after exceptionally large disasters where FEMA TSA has been activated.

Funds can be used for rapid re-housing, which provides up to 24 months of assistance, and financial assistance for moving costs, utilities, supportive services, outreach, and assistance to meet urgent needs of unsheltered individuals. Eligible families are people experiencing homelessness and households paid under 30% of area median income who either live in severe overcrowding, will face eviction within 21 days, or have another risk factor for homelessness.

RUSH implementation in Florida has been hindered by numerous hurdles – slowing the provision of assistance to disaster survivors under the program. In a report on the program's implementation released by NLIHC and the National Housing Law Project, these hurdles include a lack of guidance regarding spending deadlines, lack of transparency and information sharing, confusion about RUSH's relationship to existing assistance programs, and a reimbursement model that does not adequately incentivize grantees to spend RUSH funds in a timely manner.

The report recommends that HUD address these challenges in several ways. For example, HUD should ensure that decisions to allocate disaster assistance do not reinforce pre-existing racial disparities, and the agency should explore alternative ways to ensure equity when deploying RUSH funds. Likewise, the report suggests that HUD provide RUSH funds up front instead of via a reimbursement model to allow for quick implementation of activities, and that the agency impose timing requirements that complement FEMA programs. HUD should also clarify the benefits of synchronizing RUSH and related homeless service activities, ensure that regulatory waivers provided to RUSH recipients are sufficient, and prioritize the creation of detailed guidance on how to access RUSH funds.

Federal Housing Administration (FHA): The FHA grants a 90-day moratorium on foreclosures and forbearance on foreclosures of FHA-insured home mortgages. HUD's Section 203(h) program provides FHA insurance to disaster victims who have lost their homes and need to rebuild or buy another home. Borrowers from participating FHA-approved lenders may be eligible for 100% financing. HUD's Section 203(k) loan program enables those who have lost their homes to finance the purchase of or refinance a house along with repairs through a single mortgage. It also allows homeowners who have damaged houses to finance the rehabilitation of their existing single-family home.

U.S. SMALL BUSINESS ADMINISTRATION (SBA)

After households apply to FEMA, they might be contacted by SBA to apply for a low-interest loan. If eligible, the household does not have to accept the loan. If a household is not eligible for an SBA loan, they will be referred to FEMA to be considered for a FEMA ONA grant. To be considered for an ONA grant, a household must have submitted an SBA loan application.

SBA can provide physical disaster loans to cover uninsured or uncompensated losses of a home or personal property. A homeowner can apply for a loan to repair or rebuild a primary residence to its pre-disaster condition based on the verified losses, and homeowners may apply for up to $200,000 to repair or replace their home to its pre-disaster condition. The loan amount can increase by as much as 20% to help homeowners rebuild in a manner that protects against damage from future disasters of the same kind, up to the $200,000 maximum. Both homeowners and renters may apply for loans—up to $40,000—to replace personal property (anything not considered real estate or part of the structure of the home) lost in a disaster. The interest rate on SBA physical disaster loans depends on the applicant's ability to secure credit from another source. In 2017, applicants unable to obtain credit elsewhere were charged 1.75% interest; for those who could obtain credit elsewhere, the interest rate was 3.5%. The term of loans is often 30 years.

Businesses, including rental property owners and nonprofit organizations, can apply for loans for real estate and personal property loss up to a maximum of $2 million. In addition, businesses and nonprofits can apply for economic injury loans of up to $2 million to cover working capital to meet their ordinary financial obligations.

The "Disaster Assistance for Rural Communities Communities Act," passed in 2022, permitted the SBA to expand when and where it can offer its Disaster Loan Program. Under this new law, the SBA can activate the program on the request of a governor or chief executive of a tribal government when there is any disaster damaged property in a rural area and where the President has approved the use of FEMA Public Assistance.

U.S. DEPARTMENT OF AGRICULTURE

The U.S. Department of Agriculture (USDA) provides loans, grants, and loan servicing options to its loan borrowers and their tenants or grant recipients. It also will adjust Supplemental Nutrition Assistance Program (SNAP) limits to provide greater access to food in disaster-effected areas.

U.S. DEPARTMENT OF THE TREASURY

Congress authorized the Department of the Treasury to provide special Low-Income Housing Tax Credits (LIHTCs) and other tax incentives after recent major disasters without a permanent disaster recovery program in place. In the case of hurricanes Katrina and Rita, the Treasury established Gulf Opportunity (GO) Zone tax credits, GO Zone tax-exempt bonds, and additional New Markets Tax Credits to help rebuild housing. After Superstorm Sandy in 2011, Congress also authorized additional LIHTCs, private activity bonds, and New Markets Tax Credits. The same occurred after the 2018 California wildfire season, with Congress approving additional LIHTC funding to replace destroyed housing stock.

Revenue Procedure 2014-49 (Rev. Proc. 2014-49) from 2014 provides guidance to owners and state housing finance agencies (HFAs) regarding temporary relief from certain requirements that apply to the LIHTC program. A key provision allows an owner to provide up to twelve months of emergency housing to households that have been displaced by a presidentially declared major disaster. Households are eligible for emergency housing in a LIHTC unit if their home is in an area eligible for FEMA individual assistance.

Unless a property's written policies and procedures provide a preference for households displaced by a presidentially declared disaster, an owner may not skip over households on a waiting list to provide emergency housing. Existing households cannot be displaced to provide emergency housing.

Rev. Proc. 2014-49 relieves an owner and household of providing evidence of income eligibility. All other LIHTC rules apply, however, including LIHTC rent limits. The emergency relief period ends one year after the date the disaster was declared. After that date, displaced households that are not income-eligible under the LIHTC program cannot occupy a unit assisted under the LIHTC program. To provide emergency housing, an owner must request written approval from the HFA.

Additional issues can arise when LIHTC units are damaged by disasters. Owners of LIHTC units knocked out of service by a presidentially declared disaster have a "reasonable period" (defined as 25 months by the IRS) to finish rebuilding to retain their tax-credit status and avoid IRS tax credit recapture. Depending on the level of devastation caused by the disaster, some owners struggle to meet this deadline. Housing providers can petition the IRS for an extension to the 25-month deadline if needed, although such extensions are considered rare. This issue was notably seen in California after the 2018 wildfire season and in the aftermath of Hurricane Harvey in Houston. Advocates and housing providers should remain aware of this deadline and work proactively to avoid a lapse in tax-credit status and possible recapture.

FORECAST FOR 2024

Recovery continues to progress from 2017-2022 disasters. 2023 also saw an active Atlantic Hurricane Season which resulted in a major hurricane striking Florida; devastating tornado outbreaks across the central and southern U.S.; extreme flooding in California and Vermont; and catastrophic wildfires in Hawaii. In October 2023, Congress approved $16 billion in FEMA funds after FEMA's Disaster Relief Fund had reached a historic low following multiple disaster responses. No long-term recovery funds have, as of this writing, been approved for 2023 disasters. Any future disaster relief bill should include resources to ensure that all survivors, including people with the lowest incomes, are equitably served.

Meanwhile, Congress continued to deliberate on several bills that encourage quick and equitable recovery. In 2023, Senators Brian Schatz (D-HI), Susan Collins (R-ME), Todd Young (R-IN), Patty Murray (D-WA), Roger Wicker (R-MS), Bill Cassidy, M.D. (R-LA), Ron Wyden (D-OR), Chris Van Hollen (D-MD), Thomas Tillis (R-NC), Jon Tester (D-MT), Cindy Hyde-Smith (R-MS), Ben Ray Lujan (D-NM), Corey Booker (D-NJ), and Alex Padilla (D-CA), and Representative Al Green (D-TX) introduced the "Reforming Disaster Recovery Act" (S.1686/H.R.5940), which permanently authorizes the CDBG-DR program. The bill also creates important safeguards and tools to ensure that federal disaster recovery and rebuilding efforts reach all impacted households, including those with the lowest incomes that are often hardest hit by disasters but have the fewest resources. NLIHC strongly supports this bill. The bill has previously passed out of the House Financial Services Committee by unanimous vote and passed by a bipartisan vote of the House of Representatives. The bill, or a similar legislative proposal, is expected to be pushed throughout the 118th Congress.

The "Disaster Assistance Simplification Act" (S.1528) was introduced in 2023 by Senate Homeland Security and Government Affairs Committee Chairman Gary Peters, Ranking Member Rand Paul, Senator James Lankford (R-OK), and Thomas Tillis (R-NC). The bill would create a universal application system for federal programs, removing the need for disaster survivors to fill out multiple applications to receive assistance from different federal agencies. The bill would also streamline information sharing between federal agencies that maintain disaster recovery programs. The bill was passed by the Senate in 2023 and is currently in the House.

The "Disaster Learning and Lifesaving Act" (S.3338) was introduced in 2023 by Senators Brian Schatz (D-HI) and Bill Cassidy (R-LA). The bill would create a new permanent and independent National Disaster Safety Board (NDSB) to study the underlying causes of disaster related deaths and property damage across the country. The National Disaster Safety Board (NDSB) is modeled on the National Transportation Safety Board (NTSB) that investigates plane crashes, major railroad accidents, and commercial highway accidents. Rather than working to assign specific blame for disaster failures, the NDSB would focus on how to improve disaster recovery systems to avoid future loss of life and major property damage. The legislation would also ensure that reports and recommendations would be publicly available, tasking the board with providing technical assistance to jurisdictions attempting to implement them.

The "Housing Survivors of Major Disasters Act" introduced in 2019 and again in 2021 by Congressman Adriano Espaillat (D-NJ) and Senator Elizabeth Warren (D-MA), passed unanimously out of the House Transportation and Infrastructure Committee and then the entire House of Representatives in 2020. The bill addresses the requirement that applicants for FEMA disaster assistance provide title documentation to show ownership over disaster damaged property. This requirement constitutes a major barrier to aid for low-income households. People living in manufactured housing such as mobile homes and people with inherited, family-owned property without formal legal documentation – known as "heirs' property" – often lack access to clear title. These households are forced into lengthy and expensive legal title clearing procedures before they can be found eligible for FEMA assistance.

The "Housing Survivors of Major Disasters Act" would require FEMA to expand the list of documents eligible to prove ownership for the purposes of receiving recovery assistance and require the agency to develop a "declarative form" allowing owners who are unable to procure ownership documents to attest to ownership of their home under penalty of perjury. The bill will continue to be pushed by NLIHC and its congressional partners in 2023.

In addition to potential legislative changes, advocates should remain aware of administrative and programmatic releases from federal agencies regarding disaster recovery. FEMA has recently demonstrated a commitment to equity within its programs, indicating that substantial changes are underway at the agency. One major reform announced by FEMA in 2021 would permit some survivors to self-certify ownership of their homes when they do not have other documentation, overcoming a major hurdle to recovery. FEMA also allowed all survivors to submit a broader array of documents to prove occupancy and ownership of their homes. This reform was the result of sustained administrative pressure by NLIHC and its partners. However, significant barriers to assistance remain for individuals without clear title to their homes – thousands of applicants were denied assistance in Puerto Rico at least partially because of failure to verify ownership. Advocates should be aware that there are also significant rule changes expected in 2024 for both FEMA and HUD disaster recovery programs. DHRC members will continue to push for the formalization and distribution of such self-certification methods.

FOR MORE INFORMATION

National Low-Income Housing Coalition, 202-662-1530, www.nlihc.org.

Join the NLIHC-led Disaster Housing Recovery Coalition: https://nlihc.org/disaster-housing-coalition.

The Disaster Housing Recovery Coalition's webpage, http://nlihc.org/issues/disaster, including its recommendations:

- To Congress.
- To HUD.
- To FEMA.

NLIHC's Report, "Reforming America's Broken Disaster Housing Recovery System, Part One: Barriers to a Complete and Equitable Recovery", https://bit.ly/2RZHmuK & "Part Two: Policy Framework Reform Recommendations", https://bit.ly/3n5lnzq.

NLIHC's Top Priorities for Any Disaster Recovery Package, https://bit.ly/2K8Mp6b.

NLIHC's Disaster Recovery Resources webpage: https://nlihc.org/issues/disaster/resources.

NLIHC's Disaster Housing Assistance Program fact sheet: https://bit.ly/2QZ2WvP.

NLIHC's Disaster Housing Recovery Coalition's Administrative Transition Recommendations, https://bit.ly/3gD7GFf.

NLIHC Toolkit, "Working with FEMA to Address COVID-19 Housing and Homelessness Needs:" https://bit.ly/3m1PcjT. NLIHC and NHLP's Report, "Plugging the Gaps: Recommendations for HUD's RUSH Program": https://nlihc.org/sites/default/files/2023-10/plugging-gap-report.pdf