

May 25, 2018

Mr. Fernando Gil Enseñat, Esq.
Secretary Department of Housing
PO Box 21365
San Juan, Puerto Rico 00928-1365

RE: Comments on the PRDOH CDBG-DR Draft Action Plan

Dear Secretary Gil Enseñat:

On behalf of the Disaster Housing Recovery Coalition (DHRC), I write to thank you for the opportunity to submit comments on Puerto Rico's Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plan.

The DHRC is led by the National Low Income Housing Coalition and includes more than 700 local, state, and national organizations committed to ensuring the disaster housing recovery and rebuilding efforts are complete and equitable for all impacted individuals and communities, including those with the lowest incomes who are often hardest hit by disasters and have the fewest resources to recover.

We propose the following changes to the Puerto Rico Action Plan under five key categories for your consideration during this public comment period.

1. Deploying housing recovery funds and implementing cost-effective measures to ensure that all households – including homeowners, renters, and those who were experiencing homelessness before the disaster – receive the affordable and accessible housing assistance they need to get back on their feet.
 - Include a detailed description of the beneficiaries for Puerto Rico's proposed economic recovery, housing and infrastructure programs, indicating how the programs are aimed at people with low or moderate incomes and will address meet unmet needs. The Action Plan includes no indicators, program descriptions, actions, or goals that demonstrates how it will meet the CDBG-DR requirement that 70% of funds are used to benefit low and middle-income people.
 - Include other strategies – beyond social interest housing – to meet the needs of impoverished communities and other groups with specific needs, such as people with disabilities, the elderly, and others. The action plan only outlines social interest housing plans for "people with functional diversity" and limits these programs to the construction of 500 housing units for people with "special needs" and a housing counseling system. The Action Plan includes commitments regarding Title VI of the Civil Rights Act and the Fair Housing Act, but it fails to mention how Puerto Rico will guarantee equal access to these federal funds.

- Include a detailed description of who is considered a member of a “vulnerable population” for the purposes of this plan. As drafted, the plan only provides a general enumeration about “people of low or moderate income.” Although the Action Plan includes an analysis of the level of poverty in Puerto Rico and indicators of social mobility, it does not include an analysis of the impact the hurricanes had on these populations. As a result, the data underlying this action plan is not sufficiently up to date and is not the best data available. The increase in poverty – due to the impact of the disasters – undoubtedly alters illustrative maps of people with low to moderate incomes, transforming the area and scope of where CDBG-DR funds should be deployed. We are concerned about the vagueness with which the issue of vulnerable populations is addressed in the Action Plan.
- Provide greater resources to the most vulnerable households. The current action plan allocates a significant share of resources to a relatively small portion of the population. For example, the plan would provide \$45 million to the payment of backlogged mortgages. While we recognize the existence of a mortgage foreclosure crisis in the island, affecting more than 100,000 families currently at risk, we are concerned that resources are dedicated to this population under the umbrella of “low to moderate income” without further definition. We cannot lose sight of the fact that most people with mortgages are people with relatively higher incomes, so this could result in diverting resources away from people with the greatest needs.
- Establish a clear policy of non-displacement that prioritizes real, reasonable and participatory mitigation whenever possible. Displacement cannot be the first option.
- Ensure that the lack of documents that accredit ownership is not an obstacle in receiving assistance for housing after disasters. To do so, the action plan should adopt a definition of informal housing that does not include legal title as a condition for “formality.” The “Planning Initiative Program” would allow the identification of informal housing and includes a reference to “reforms to the registry of plots for the restructuring of the real estate market.” We are concerned that there is no clear plan regarding these communities and housing after the update of such registration. We want to emphasize that it is not correct to argue that dwellings that lack formal title are unsafe, are in risk areas, or lack of sanitary or electrical services. The lack of accessibility to assistance such as that of FEMA, as well as the alleged “illegality” of the occupation, responds to historical, social, and economic factors that should be addressed by regulating their permanence, without the need for displacement or relocation.
- Include and detail the strategies for public participation in addressing the issue of lack of formal title. We consider this to be an important amendment to the plan, and for that reason, it should be open to public comment.

2. Ensuring that federal and state investments in public infrastructure and environmental remediation are allocated fairly and adequately to meet the needs of low income people and communities in urban, suburban, and rural communities.
 - Re-evaluate and detail the programs aimed at economic recovery, from the perspective of needs disclosed by the communities themselves and including their participation as a priority. This is a central requirement when designing or elaborating a plan related to jobs, services, and investments.
 - Ensure that the strategies for economic revitalization and infrastructure meet the needs and development of low income people and communities.
3. Adopting transparent data and reporting standards to ensure that federal and state resources are allocated fairly and adequately to meet the needs of low income people and communities.
 - Utilize additional data sources (like the U.S. Census) beyond FEMA data to identify unmet needs. Some of the main data sources used in the action plan to support the identification and assessment of unmet needs are FEMA, SBA and the Build Back Better Report from the Office of the Governor of Puerto Rico. Predictably, the most emphasized data is that provided by FEMA. Although the general norm is to use this information, we are not convinced that it is the "best available data" in accordance with HUD regulations. To collect this data, FEMA relies on inspections carried out by subcontractors who do not have the proper training and who, in many cases, fail to comply with the processes established by FEMA. There are requests pending for access to FEMA data – including requests from DHRC members – highlighting the agency's lack of transparency across several disaster fronts.
 - Require contractors, municipalities, and other legal or natural persons carrying out the work required by the plan- to make public a detailing line-by-line accounting of expenses in order to promote the adequate and efficient use of public funds. It is required that the Action Plan give a detailed description of the distribution method it will use to distribute funds to municipalities, subrecipients or the description of the project that will be directly carried out by the government as a recipient. To promote greater transparency and the highest level of accountability regarding the management of these funds, the Action Plan should provide greater detail of eligibility criteria, objectives, the criteria and method of distribution of funds, and the specific impact of these and other elements in the disaster recovery process.
 - Establish an appeals process that complies with federal and local regulations. Because this is a substantial amendment to the plan, it should be open to public comments once it is incorporated.

- Establish guarantee and claim mechanisms against contractors who do not comply with the necessary standards in construction.
4. Setting robust requirements for public information, education, and community participation.
- Make available an official translation of the Allocation Notice (AN) into Spanish as well as information on other matters related to CDBG-DR funds to ensure effective communication to communities about the program, as well as broad notice of availability and eligibility of these funds.
 - Conduct public hearings distributed in an equitable manner between geographical areas, at feasible times for the working population of the country. Notice of these public hearings should be done in an appropriate manner to ensure community participation.
 - Extend the period to submit comments to the action plan so that communities have enough time to consider the draft, effectively assess the needs in terms of infrastructure and housing, and draft comments. To ensure meaningful and effective participation, Puerto Rico must consider the reality of the thousands of people who, eight months after the hurricane, still do not have electric power, electric service, transportation or means of communication necessary to learn about the plan and participate.
 - Ensure that the action plan is accessible and readable for the general population.
5. Ensuring that the lowest income households can fully benefit from federal disaster housing resources and have meaningful choices over where to live and opportunities for work – free from discrimination by furthering fair housing choice and combatting housing segregation.
- Guarantee the right of the people affected by Hurricanes Irma and María to decide where they want to live. The Puerto Rico government and hire contractors have a responsibility to make all necessary efforts to obtain greater community participation and informed consent prior to proposals of relocation and evictions.
 - Guarantee the right of the people to remain or return to their communities whenever housing is safe and habitable. Communities and individuals must be given a real, participatory and reasonable opportunity to mitigate the damages suffered by the disaster. Mitigation should always be considered as the first alternative to relocation.
 - Prioritize maintaining the integrity of the community, respecting geographic proximity and special needs that may exist, when relocation is necessary.
 - Guarantee fair, equal, and non-discriminatory treatment to the affected people by providing adequate and equitable assistance throughout the recovery process. This includes the long-term recovery of their communities.

- Ensure a dignified and just recovery, in which each community and person is treated fairly and equitably, without discrimination based on race, sex, sexual orientation, gender identity, age, functional diversity, social condition, national origin or other protected classification. Equal treatment must be guaranteed in the attainment of projects aimed at flood protection and, equally, fair treatment in the implementation of housing, infrastructure or economic revitalization projects.
- Proactively protect and defend the rights of historically vulnerable groups and identities such as the elderly, women, impoverished communities, people with functional diversity, people from LGBTTIQ communities, people experiencing homeless, immigrants and others.
- Ensure the highest standard of accessibility and participation for people with functional diversity, including compliance with local and federal regulations.
- Require subrecipients of funds for economic, housing and infrastructure developments to hire people living in Puerto Rico, with an emphasis on vulnerable communities and groups.

Thank you for your consideration of these proposed changes.

Sincerely,

A handwritten signature in black ink that reads "Diane Yustel". The signature is written in a cursive, flowing style.

President and CEO
National Low Income Housing Coalition