
August 21, 2019

The Honorable Chris Smith
Director, Individual Assistance
Federal Emergency Management Agency
500 C Street, SW
Washington, D.C. 20472-0001

To Director Smith:

On behalf of the Disaster Housing Recovery Coalition (DHRC), I am writing to express concerns stemming from a meeting held on August 9, 2019 with the FEMA Office of Chief Counsel, National Low Income Housing Coalition, and other advocates regarding barriers faced by at least 77,000 low-income survivors in Puerto Rico who struggled to prove ownership of their homes after Hurricane Maria and who, as a result, may have been wrongfully denied FEMA Individual Assistance. While FEMA staff acknowledge that these barriers have impacted the lowest-income survivors in nearly every disaster-impacted community since at least 1995, survivors in Puerto Rico were impacted at a much greater scale because of widespread local land ownership practices. During the meeting, FEMA staff informed us that the agency has only taken limited steps in recent months to help Puerto Rican and other survivors overcome this barrier. Moreover, FEMA staff indicated that the agency is actively considering policy changes that could make it more difficult – if not impossible – for future disaster survivors to receive the assistance to which they are entitled. I write to urge FEMA to immediately reverse course on these policy changes and instead to work with stakeholders to reduce – not increase – barriers to an equitable and complete recovery for all survivors, including those in Puerto Rico and after future disasters.

The Disaster Housing Recovery Coalition is led by the National Low Income Housing Coalition and includes more than 800 national, state, and local organizations, including many organizations working directly with disaster-impacted communities and with first-hand experience recovering after disasters. We work to ensure that federal disaster recovery efforts reach all impacted households, including those with the lowest incomes who are often the hardest-hit by disasters and have the fewest resources to recover afterwards.

As outlined in letters sent to then-Administrator Brock Long on September 14, 2018 and October 19, 2018, FEMA's Office of Chief Counsel worked closely with DHRC members Ayuda Legal Huracan Maria, Fundacion Fondo de Acceso a la Justicia, and Servicios Legales de Puerto Rico to prepare a "sworn statement" that would allow Puerto Rican homeowners without title documents to prove ownership of their homes so that they can receive the assistance to which they are entitled. Since that time, FEMA has refused to provide the sworn statement to survivors or even to make it available on FEMA's website, social media, or at Disaster Recovery Centers, greatly limiting the ability of survivors to make use of this new resource. In a letter to NLIHC on October 8, FEMA instead stated that the agency is "contacting all affected applicants to provide them with information on how to prove ownership with the sworn declaration." FEMA also committed to Senator Menendez (D-NJ) that FEMA staff "are...reaching out through telephone calls to all applicants initially denied Home Repair or Replacement Assistance for lack of acceptable home ownership verifications to advise of the different documents that will be acceptable as proof of ownership for the applicant's primary residence."

In the August 9 meeting, FEMA OCC staff informed advocates that the agency has taken only limited steps to make the sworn statement or any similar resource available to survivors. While FEMA staff stated that the agency had notified eligible Puerto Rican survivors about the availability of this resource – as it had committed to NLIHC and Senator Menendez – they could not confirm how many applicants had been contacted. FEMA staff also stated that the agency has not submitted the “sworn statement” or any similar resource to the Office of Management and Budget for approval under the Paperwork Reduction Act – a process FEMA claims is necessary before the agency can provide this document to survivors. FEMA OCC staff indicated that the agency has not sought from Congress any legislative exemption from the Paperwork Reduction Act that would allow the agency to overcome these barriers more quickly after a disaster.

FEMA OCC staff also stated that the agency is considering a change in policy that could make it more difficult – if not impossible – for some disaster survivors to access FEMA assistance. OCC staff indicated that rather than creating a single official FEMA document that can be used by survivors to prove ownership of their homes after each disaster, FEMA may instead create a unique document after each disaster with input from the impacted state’s governor.

If implemented, this policy change would ensure significant delays and obstacles to allowing disaster survivors to receive the assistance to which they are entitled. Requiring that each unique document be approved by OMB under the Paperwork Reduction Act, as FEMA proposed, would essentially guarantee that the systemic and persistent barriers that have prevented low-income survivors from accessing FEMA assistance since at least 1995 will not only remain, but will become even further entrenched.

When advocates raised concerns about this policy change, FEMA OCC staff incorrectly claimed that state involvement was necessary because the sworn statement could be used to assert homeownership rights at the state level. This claim is untrue. The FEMA documents can only be used to confer federal benefits and would have no bearing on state property rights. This claim is yet another a red herring used by FEMA to avoid addressing the systemic failures in disaster housing response and recovery.

Instead of creating new barriers to recovery, FEMA must take every step available to ensure a complete and equitable recovery for all disaster survivors, including those with the lowest incomes. To this end, I urge FEMA to adopt an official sworn statement that can allow vulnerable survivors – including homeowners without formal title documents, mobile home residents, renters without leases, and others – to more easily access the FEMA assistance to which they are entitled.

For more information, please feel free to contact NLIHC Senior Policy Director Sarah Mickelson at smickelson@nlihc.org or 202-507-7447.

Sincerely,



Diane Yentel
President and CEO
National Low Income Housing Coalition