

December 02, 2022

The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
500 C Street, S.W.
Washington, DC 20024

To Administrator Criswell,

On behalf of the undersigned organizational members of the Disaster Housing Recovery Coalition (DHRC) Puerto Rico Working Group, we are writing to express significant concerns regarding the ability of Spanish-speaking and deaf disaster survivors in Puerto Rico to access translation services for the purposes of applying for assistance. Disaster survivors with Limited English Proficiency (LEP) or disabilities have continually experienced an inability to access assistance and information from the Federal Emergency Management Agency (FEMA) in the aftermath of major disasters. Despite public outcry after past disasters, these same failures have resurfaced again. We are also deeply concerned about FEMA's decision to deny a request from the Puerto Rico governor to extend the deadline to apply for assistance – a decision that denies disaster survivors due process. FEMA must act immediately to ensure that all disaster survivors receive the assistance for which they are eligible.

The DHRC includes more than 890 local, state, and national organizations, including many organizations working directly with disaster-impacted communities and with first-hand experience recovering after disasters. Together, we work to ensure that federal disaster recovery efforts reach all impacted households, including those with the lowest incomes. Since 2018, the DHRC has included a working group of organizations with community-presence in Puerto Rico to push for equitable disaster recovery for the island in the aftermath of Hurricane Maria, the 2020 Earthquakes, and Hurricane Fiona.

FEMA is required to follow federal civil rights law when providing assistance following a disaster. These laws apply to all aspects of the federal disaster response. Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Section 508 of the Rehabilitation Act all require FEMA to provide equal access to services and prohibits discrimination on the basis of race, color, or national origin when conducting any assistance program. In addition, Section 308 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 requires that, when FEMA is authorized to provide assistance:

“[The] distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.”

Despite these requirements, FEMA has continuously failed to provide equal access to disaster survivors with Limited English Proficiency and those in need of sign language interpretation

when applying for assistance. As a result, individuals with some of the greatest needs following disasters have been unable to access the FEMA assistance for which they are eligible – leading to displacement, and in worst cases, homelessness.

According to the U.S. Commission on Civil Rights, in the aftermath of Hurricane Harvey disaster survivors commonly were unable to access translated information on shelters – endangering the lives of those unable to understand where to go or how to apply for assistance during the impending disaster. In addition, letters sent by FEMA detailing requirements to appeal or complete the application process were solely sent in English.

During Hurricane Maria, the process was similarly difficult for Spanish speakers. FEMA assistance application and information forms were commonly not translated into Spanish or were poorly translated. Additionally, FEMA officials deployed at Disaster Recovery Centers (DRCs), call centers, and inspections, as well as hotline officers, were not Spanish proficient.

Members of the deaf community are consistently denied access to interpreters. After Hurricane Maria, numerous complaints were filed detailing that housing inspectors did not provide sign language interpretations for deaf applicants. After Hurricane Harvey, deaf applicants were forced to wait for hours at DRCs before American Sign Language (ASL) interpreters arrived to assist them. The failure to provide adequate interpretation services prevents those most-impacted by disasters from accessing the assistance they need to fully recover.

While FEMA has been aware of its previous failures to provide adequate access to Spanish and Sign Language translation, the same issues seen during Hurricane Harvey and Hurricane Maria have resurfaced following Hurricane Fiona. Community-based nonprofit organizations that carry out recovery processes have identified many instances of inequitable access due to language and reasonable accommodation barriers during the response. FEMA’s call center waiting time for Spanish speaking applicants averaged nearly five hours during the peak application period and remain unreasonably lengthy. Applicants have reported that officials either hung up or ignored phone calls in Spanish. When available, Spanish-language versions of FEMA documents are often poorly translated and lack accurate information. Sign language interpreters provided upon request were not fluent in Spanish nor were they fluent in the adapted ASL utilized by deaf residents of Puerto Rico. Home inspections have also been carried out without sign language interpretation for deaf applicants for assistance. FEMA employees resorted to requesting that nonprofit organizations and legal aid attorneys at DRCs act as translators for applicants, in addition to their role in providing information to disaster survivors on their rights.

The responsibility to ensure all disaster survivors can access information and assistance relies primarily on FEMA. As established in the FEMA policy: “applicants with LEP are entitled to communicate with FEMA and receive information from FEMA in a language other than English.”¹ While non-profits and legal aid attorneys can and do provide assistance, FEMA has a legal obligation to ensure its programs are accessible. This responsibility towards equity and accessibility cannot be transferred to nonprofit organizations on the ground.

¹ See, IAPPG, 1.1 FP 104-009-03| May 2021, page 14

We are also concerned about FEMA's decision to deny requests by the Puerto Rico Governor to extend the deadline to apply for Individual Assistance (IA). According to FEMA policy, extensions of a registration period can be granted upon request where it is warranted, including instances where it is: "necessary to establish the same registration deadline for subsequently designated contiguous areas; there is a continued volume of registrations; and/or there are significant barriers to registration (i.e., extended loss of electricity)."² Puerto Rico met all requirements for an extension of the IA application period, and FEMA's failure to approve the Puerto Rican government's extension request is a violation of due process.

FEMA closed the IA application period on November 21, 2022 even though over 20 municipalities were excluded from the initial disaster declaration on September 21, 2022. Municipalities such as Aguada, Aguadilla, Culebra, Hatillo, Isabela, Las Marías, Moca, Quebradillas, Rincón, and San Sebastián were included on September 27, 2022. As a result, disaster survivors in these areas had one less week to apply for assistance than residents in other areas of the island.

There remains a volume of registrations for assistance even on the final day of the prematurely ended application assistance period. Out of the 43 original DRCs opened on the island following Hurricane Fiona, only 15 remained open by the end of the registration period, funneling large amounts of assistance applications through the remaining DRCs. Eyewitness reports indicate that DRCs in Caguas, Ponce, Salinas, and Santa Isabel remained very active on the concluding day of the registration period.

Multiple barriers to registration existed during the application period. As discussed above, individuals with disabilities and disaster survivors with LEP were delayed or prevented in applying for assistance due to FEMA's inability to provide adequate translation services. A week-long power outage impacted major portions of the island following the storm, which prevented many from applying for assistance over the phone. In addition, access to and from many of the most impacted areas was difficult for significant periods following the storm.

Many areas of the island had to wait for FEMA approval to apply, were impacted by extended post-disaster blackouts, were unable to access translation services, and had only a few DRCs in which to access information necessary to apply.

Finally, FEMA policy provides that while assistance registration is officially closed, individuals do have the right to submit applications with justification for their delayed application.³ Despite this, the FEMA website for Hurricane Fiona response prominently displays the following graphic stating that individuals are no longer able to begin a new claim (*see figure below*).⁴ This creates further confusion for individuals that had been unable to apply for assistance previously.

² See, *Id.* at 70

³ See *Id.* at 71.

⁴ See, Puerto Rico Hurricane Fiona, Disasters. Available at: <https://www.fema.gov/disaster/4671#:~:text=Period%20to%20Apply%20for%20Hurricane,information%20and%20receive%20application%20assistance.>

Now Closed: Period to Apply for Disaster Assistance



The last day for individuals and families to apply for assistance after this disaster has passed. You are no longer able to begin a new claim.

To check the status on a previously submitted claim, visit DisasterAssistance.gov.

To address these issues FEMA must ensure that:

- The application deadline is reopened to ensure that all disaster survivors are able to apply for assistance.
- Individuals must be directly informed about their ability to file later applications.
- All personnel that offer in-person services for survivors seeking assistance at DRCs in Puerto Rico and other predominant Spanish-speaking areas are fluent in Spanish;
- DRCs must remain open for the entire application period to ensure that survivors prevented from applying because of translation issues are able to apply;
- Sign language interpreters contracted by FEMA in Puerto Rico must understand deaf culture on the island and be fluent in Puerto Rico's adaptation to ASL and Spanish;
- Where an applicant has indicated that they require a Spanish or Sign Language interpreter, a FEMA home inspection must be conducted with translators present; and
- The FEMA call center must be immediately staffed with enough translators to ensure that callers requiring translation have a similar wait time to others.

By implementing these reforms immediately, FEMA can move towards fulfilling its obligations under federal civil rights law and allow all disaster survivors access to the assistance they are eligible for. Again, we urge FEMA to take these actions immediately.

Sincerely,

Ayuda Legal Puerto Rico

Fair Share Housing Center

Fundación Fondo de Acceso a la Justicia

Hispanic Federation

National Low Income Housing Coalition