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Federal Emergency Management Agency (FEMA)  
Docket ID: FEMA-2021-0011  
Submitted via Federal eRulemaking Portal

RE: Comments on FEMA programs, regulations, collections of information, and policies for the agency to consider modifying, streamlining, expanding, or repealing in light of recent Executive orders 13985, 13990, and 14008

To Whom It May Concern:

Texas Housers (incorporated as Texas Low Income Housing Information Service) is a Texas, IRS classified 501(c)3 nonprofit organization incorporated in 1988. It operates from offices in Houston, Austin and San Antonio. The mission of Texas Housers is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood.

Texas Housers has been extensively involved with state and local government and disaster survivors during Hurricanes Rita, Dolly, Ike and Harvey to make recovery successful. Our staff works to understand the policies and practices of government agencies involved with disaster recovery and relief and the disaster recovery experience of survivors with low incomes, especially focusing on issues of racial equity.

We applaud the Biden Administration's attention to racial equity and environmental justice in the administration of FEMA programs demonstrated through this request for comments. In approaching this topic, it is important to first appreciate that, in our experience, many disaster survivors are people of color. This is largely because of past government and private discrimination has forced the geographic concentration of people of color into low-lying, flood-prone areas that often lack publicly funded and maintained storm water protection. These neighborhoods are often in lower-property value areas which affects the residents ability to obtain an adequate level of compensation to rebuild their homes from FEMA's property value based qualification and compensation approach. People of color, a vastly overrepresented amount of survivors with low incomes, are thus doubly disadvantaged by residential isolation in high disaster impact risk areas and by having lower incomes in general.

As observers of and participants in the federal, state and local disaster recovery process since 2008, Texas Housers has seen that in many aspects the recovery process is racially discriminatory. We have observed FEMA Individual Assistance (IA) and Public Assistance (PA) benefits administered in a manner that discriminates both directly and through disparate racial impact against survivors and communities of color. We have also seen FEMA PA funds misused when cities and states deny or steer away FEMA and HUD recovery and mitigation benefits from low-income communities of color. Thus denied equal access to federal FEMA benefits, far too many people of color and other marginalized populations have been forced to return to racially segregated, high disaster risk, disaster exposed areas that are unmitigated.

In the regulatory and bureaucratic systems that have been established to administer disaster assistance programs, too often we lose sight of the goal. Texas Housers, along with state, and

local providers, advocates and disaster survivors, have developed seven principles for disaster recovery.

1. Securing help from government of all levels is accessible, understandable and timely.
2. Everyone in need receives safe, temporary, accessible housing where they can reconnect with family and community.
3. Displaced people have access to all the resources they need to recover housing, personal property and transportation; disaster rebuilding jobs and contracts are locally sourced and provide fair wages.
4. Everyone is fairly assisted to fully and promptly recover through transparent and accountable programs and compliance with civil rights laws, with survivors having a say in the way assistance is provided.
5. All homeowners are able to quickly repair or rebuild in safe, quality neighborhoods of their choice that fit the needs of their families.
6. Renters quickly get quality, affordable, accessible rental property in safe, quality neighborhoods of their choice that fits the needs of their families.
7. All neighborhoods are free from environmental hazards, have equal quality public infrastructure and are safe and resilient.

There are four key recommendations in our comments:

1. Administer the FEMA IA program through a “trauma-informed” approach to meet the specific needs of low-income and marginalized survivors.
2. Correct policies and practices that unfairly deny benefits to two traditionally excluded populations: low income renters and very low-income homeowners.
3. Address the effect of residential racial segregation on the impacted population in a disaster and ensure that federal, state and city program administration includes actions to overcome the forced isolation of people of color and other impacted populations in undesirable neighborhoods.
4. Collect data on disaster impacted households and those receiving assistance to ensure federal benefits are equitably made available to people of color by FEMA, states and local governments.

In this invitation for comment, FEMA poses 11 general questions. We will organize our comments around these questions. Texas Housers will provide comments to eight of those questions.

***(FEMA QUESTION 1) Are there FEMA programs, regulations, and/or policies that perpetuate systemic barriers to opportunities and benefits for people of color and/or other underserved groups as defined in Executive Order 13985 and, if so, what are they?***

***How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to deliver resources and benefits more equitably?***

There are FEMA programs, regulations, and/or policies that perpetuate systemic barriers to opportunities and benefits for people of color and/or other underserved groups as defined in Executive Order 13985. We will discuss some of those programs, regulations and policies below and propose solutions to deliver resources and benefits more equitably.

- A. **Administer IA programs through a trauma-informed approach.** This first comment may be the most difficult for FEMA to act on because it requires a culture change. We are asking FEMA to address inequities in the experience of individuals seeking FEMA assistance. FEMA currently administers IA programs in the standardized, bureaucratized manner of a government agency. FEMA needs to modify this approach when dealing with low-income and other marginalized and underserved populations. FEMA must stop administering disaster assistance like it is the post office or a government benefits agency and instead adopt a “trauma-informed” approach to program administration. The disaster experience of people with low-incomes, who are disproportionately people of color and marginalized individuals, it’s substantially different from people with higher incomes. In particular, the ability to deal with bureaucratic systems is significantly different. When survivors of a disaster interact with FEMA, most have not recovered from the traumatic effects of the disaster. For many, the trauma of disaster is ongoing. Their lives are no longer intact, their homes and possessions are destroyed, and it will take months to years to become whole, if ever. A trauma-informed approach recognizes and adapts to this reality in the same way professional staff in other fields who deal with trauma survivors (emergency room workers, behavioral health specialist, etc.) use their best practices to interact with the people they encounter. A FEMA trauma-informed approach requires a number of changes in programs and practices, many, but not all outlined in our comments below. Some of these changes include assigning a unique, permanent case worker to each applicant, employing skills of social work, providing low-income survivors extra assistance to secure documents and complete applications, extending deadlines for applicants who need it, providing more one-on-one support, providing information and advice to applicants in their native languages, offering alternatives to online portals that some applicants cannot access or navigate, and many more. There have been a number of studies done since Hurricane Katrina that detail this approach. Implementing it should be the core of FEMA’s response to the President’s Executive Order.
- B. **Extend application deadlines, IA benefits, and temporary housing for households whose lives are disrupted for long periods.** Low-income and other marginalized and underserved populations (and hence survivors of color) often experience longer-term disruptions to their lives than other survivors. FEMA should not operate under an assumption that all survivors have equal time and access to resources to complete the documentation FEMA requires for applicants to collect. Further, these populations may need benefits in the form of temporary housing and cash support for considerably longer periods of time than the general population. The supply of low-rent rental housing across that nation is dramatically less than that for middle-income populations. In Houston for example, National Low Income Housing Coalition’s (NLIHC) report *The Gap* reports that there are fewer than 19 affordable and available renter housing units for every 100 households earning at or below 30% of the area median family income. There are more than 100 such units available for every 100 households earning 80% or more than the area median family income. When FEMA sets a deadline to the end of temporary

housing assistance following a disaster, the impact of those families with income below 30% area median family income is much more traumatic than the impact on middle-income households. This is an example of the need for a trauma-informed process. Similar inequities based on income are experienced in the application process for FEMA assistance. Many survivors lack access to internet, scanners, fax, or computers, as well as lacking accessibility to documents and bills, unlike people who are not in disaster mode. Page 11 of the Individual Assistance Program and Policy Guide, Version 1.1 (IAPPG) shares a timeline of IA programs. Many application windows close 30 or 60 days after the disaster declaration. It may take residents days to weeks to be able to return to their home post-disaster, much less find the bandwidth to fulfill all the application requirements in bureaucratic timelines. Extended comments about applicant barriers can be found in questions 6 and 10.

- C. **Under assessment of IA needs of renters with low-incomes.** FEMA data collects both the real property and personal property loss of homeowners, but only determines the IA needs of renters based on their personal property loss. The only programs that provide assistance to renters ignore substantial unmet housing needs for renter direct financial assistance. As noted above, the housing needs of low-income (and generally people of color) are many times greater than middle-income survivors. In an analysis of FEMA's Harvey allocations, Texas Housers found that though renters and owners make up roughly equal percentages of the total registrations that FEMA received for IA, more owners received the inspections that are necessary to qualify for cash assistance than renters. Of total awarded applicants, 84% of Individual and Household Programs (IHP) assistance was received by owners and only 16% was offered to renters in Texas. For renters, the breakdown of IHP designations was 0% for "Repair / Replacement" (renters are not eligible for this type of assistance, as they do not own the structure), 34% for "Rent" and 66% "Other Needs". The average IHP FEMA provided to a renter household was only \$1,765 per month. Renters seeking to recover damaged personal property and vehicles are required to submit an application for a Small Business Administration (SBA) loan before being considered for FEMA IA grants. This can delay their application process, especially as the SBA has been found to have experienced [major backlogs](#) during the Harvey hurricane season. Exclusion of FEMA data for the actual damage suffered by rental units and using only a personal property standard to show unmet renter need severely undercounts renter damages by FEMA, which in turn will be overlooked in the allocation of disaster recovery funding streams and underrepresented in the distribution of Community Development Block Grant - Disaster Recovery (CDBG-DR) funding between home repair and increasing affordable housing stock. FEMA should either increase the levels of direct assistance provided to renter households or adjust the temporary housing benefits to provide rent assistance over a much longer period of time to allow renters to recover in the tight affordable housing markets. CDBG-DR distribution concerns are further explained in 1G & 1H.
- D. **Survivors overburdened in the IA application process.** Applying a trauma-informed lens to programs and policies will assist FEMA in understanding the cost and difficulty that survivors face in navigating the FEMA IA programs. Access to time and money are lower for many low-income and other marginalized and underserved populations. These low-income survivors living with the consequences of disaster are financially- and resource-stressed even before the disaster. Collecting all the information that is required to apply for IA becomes an arduous ordeal for them. Many do not have time to be calling other government agencies to track down paperwork or have extra money to pay for notary services, faxing services, printing services, and other requirements that require

financial support. We will touch more on the overburden placed upon applicants in question 6 and the need to collaborate across government agencies in question 5.

- E. **IA policies and rules reinforce racial residential segregation.** Serious efforts must be directed to overcome the extreme levels of racial and economic housing segregation that exists in low-income, polluting industry fenceline communities that have felt the brunt of disaster impacts in Texas. Simply rebuilding housing in place, and thus limiting low income and minority households to their existing neighborhoods, will reinforce existing segregated housing patterns and will be an explicit failure to meet the requirement under the Fair Housing Act and Executive Orders to “affirmatively further fair housing” that should be followed by all governmental entities using disaster recovery funds. The recovery program is legally required to permit people of color a choice to move to neighborhoods that are safer, with better schools and access to jobs. To date FEMA has failed to even consider these requirements much less comply with these laws. Residential choice and persistent patterns of racial segregation are systemic barriers to opportunity rooted in racism. Disaster recovery is fundamentally about having a decent home in a safe neighborhood. The choice of where to live must be built into FEMA recovery programs. Housing choice segregation is further expanded in 3A.
- F. **PA policies and rules reinforce racial residential segregation and fail to prevent discrimination by cities and states in project selection.** The pernicious effects of residential racial segregation are not just seen in FEMA’s IA program. They can also be found in the grant programs that FEMA makes available to state and local governments. An essential element of racial equity is the selection of locations that state and local governments choose to receive FEMA PA grant funds. In Texas, our experience has shown that state and local government agencies routinely elect to expand FEMA PA funds in neighborhoods that are overwhelmingly white and that are often neighborhoods with significantly smaller populations of low income households. It is not uncommon to see FEMA PA Funds directed to neighborhoods that were less impacted by the disaster while neighborhoods of extremely low income people of color are excluded. We have never seen FEMA undertake any sort of analysis with regards to the civil rights or fair housing impact of the applications it receives from state and local governments for PA funds. This is inconsistent with federal law, and FEMA should review each application for PA for compliance with Title VI of the Civil Rights Act of 1964 as well as Title VIII of the Civil Rights Act of 1968 (Fair Housing Act). As it reviews an application received from a state or city, FEMA should do an equity analysis. At the least, this analysis should look at the geographic and demographic characteristics of applications for IA that FEMA has received and compare this with the areas which the state or city proposes just served with a PA grant. There should be an equitable use of these funds in which people of color are, at a minimum, proportionally served by the PA grant to the ratio of the population determined to have been impacted by the disaster. FEMA should also establish a hierarchy of needs for the use of PA funds in which projects are required to demonstrate that their grants are prioritizing critical health and safety concerns over the use of FEMA funds to engage in general, more routine modernization and improvement activities. We elaborate further the need to support civil rights concerns in 3A.
- G. **FEMA-determined household damage data is critical data, yet the FEMA data is often incomplete, biased and inaccurate.** While FEMA data is often the only available data source of disaster damages, it systematically undercounts hurricane survivors with low- or moderate-incomes and, in effect, people of color effectively undermining the quality and accuracy of the data. Studies have shown a significant non-participation rate

in the FEMA IA program stemming from the past problems of the program, immigrants fear of interaction with government and other factors. More robust outreach is needed to address this. FEMA should undertake outreach and communications efforts to reach all survivors; include door-to-door canvassing and special outreach efforts to hard-to-reach populations; and distribute easily understandable multilingual materials. The strategy should identify hard-to-reach populations including language minorities. It should employ linguistically and culturally appropriate messaging strategies. FEMA, along with the government entities involved in recovery should coordinate the production of materials and the process for ongoing communications to keep disaster survivors fully informed of where they stand in the IA application and in follow-up recovery program processes including CDBG-DR. The outreach and communications strategy should incorporate door-to-door outreach to low-income communities and marginalized populations including seniors and persons with severe disabilities who either do not have information about the resources available or are unable to apply for the resources. FEMA should employ alternative survey techniques to identify characteristics of under-applying populations and develop strategies to reach these populations. FEMA should develop and employ a methodology to report to users of its data for future long-term disaster recovery an estimate of the populations that were impacted by the disaster but did not make application for IA. We further address the concerns of data collection as an access point to the entire disaster recovery mechanism in 5D.

- H. **FEMA data is not only for IA eligibility but for the subsequent allocation of much greater amounts of CDBG-DR for long term recovery.** To determine unmet needs of survivors of disaster in establishing CDBG-DR programs, making regional allocations of funds, and designing and targeting programs, many states such as Texas rely on FEMA household damage data. To ensure that rebuilding begins as quickly as possible, it is critical that the initial damage estimation be carried out in a timely manner because many of the initial response activities are dependent upon this assessment. The initial damage assessment is crucial for the authorities to get a sense for the scale of the disaster- it should be a replacement cost damage assessment. While information needs to be accurate, there does not need to be a focus on precision. A distinction should also be made between structural damage and other types of damage, such as flood damage. Current FEMA procedures are summarized as percentage damage estimates which “do not adequately capture variation in types and level of damage” (Bates, 2007). “Questionable methodology combined with inspectors unfamiliar with the area’s architecture and pre-storm conditions” led to inaccurate damage estimates in the aftermath of Hurricane Katrina (Bates, 2007).
- I. **FEMA’s assessment process leads to too many wrongful denials.** In 2017, the NLIHC was able to obtain FEMA Harvey application data. Analysis of the data shows that by October 13, over 800,000 applications had been submitted; however, only 321,244 had been approved for IA. In 2018, Texas Housers acquired FEMA denial rate data for homeowners and renters who applied for IA during Hurricane Harvey through a protracted FOIA request. The denial rate for all homeowner applicants was 26%, but those making less than \$15K/year had a denial rate of 46%. As a household’s income climbed, their likelihood of being approved by FEMA also increased. Dramatically, those who reported their income as over \$70K/year had only a 10% FEMA determined ineligibility rate. FEMA has resisted making data like this available to organizations like Texas Housers who wish to monitor the data for possible civil rights violations. This is in addition to a general lack of transparency around FEMA’s inspection and eligibility determination process. In the limited instances and limited extent of the data made

available, Texas Housers has noted that the denial codes offer only vague evidence as to what has gone wrong with applications from renters and low-income homeowners that have produced these anomalous denial rates. For example, more than ten thousand Hurricane Harvey households were denied because the FEMA inspector wasn't able to contact them. A full 95% of homeowners denied for "Failed Identity Verification" make less than \$30K/year. For renters in the same income bracket, the number was denied on these basis was even higher. Other disproportionately common problems for lower-income applicants include the applicant's identity couldn't be verified by FEMA (meaning their social security number and name weren't matched in FEMA's system); their application was either determined by FEMA to be a duplicate or there was something that caused FEMA to flag it for duplicate review; the applicant couldn't prove that they lived in the home at the time of the disaster; the inspector wasn't able to contact the applicant to complete an inspection of their home; and the applicant missed their inspection appointment. These are huge numbers and denial rates among low-income homeowners and renters who are largely people of color and other marginalized persons. FEMA refuses to release data that would allow for a determination if a significant number of these denials were made incorrectly. We suggest that that is indeed the case. In any event, FEMA should examine the data and account for these disturbing anomalies. We expand on the issue of FEMA inspections in 4F.

- J. **"Deferred maintenance" IA denials systemically exclude low-income and other marginalized and underserved populations.** FEMA's policy of refusing to assist low-income households whose homes were in need of repairs before a hurricane (termed "deferred maintenance") came to light in the wake of hurricanes Dolly and Ike in 2008, leaving 115,000 Texas elderly, disabled and low-wage homeowners without the help they need to repair their homes. The greatest amount of work on this problem has been done in South Texas among impoverished Mexican-Americans living in subdivisions lacking stormwater infrastructure locally referred to as "colonia." It is important to understand the history of this systematic denial of low-income homeowners during previous hurricanes. Though inspectors classified the denial reason as "insufficient damage," homeowners were told often that the condition of their home prior to the storm was so bad that there was no way to tell whether the storms had caused the damage apparent at the time of inspection. Inspectors called this "deferred maintenance." This barred people from receiving rebuilding help who likely had too few assets and meager savings to keep their home in tiptop shape. FEMA has a policy that discriminates against people because they are poor. Texas Housers' partners *La Union del Pueblo Entero* and Texas RioGrande Legal Aid filed the lawsuit that resulted in an eight-year legal battle. The federal court ruled that FEMA violated the law by using a secret rule to deny more than 24,000 families in the Texas Rio Grande Valley housing repair assistance. These practices are illustrated in eleven stories we report here: <https://texashousers.org/2008/11/20/eleven-texas-families-stories-document-femas-illegal-and-systemic-discrimination-against-the-poor/>
- K. **Denial of IA based on non-traditional ownership structures results in disparate impact on low-income and other marginalized and underserved populations.** Low-income households may not always have a traditional homeownership title because they purchase their home with no traditional financing methods such as contract for deed, deed in lieu, lease-option sale, heirship estates and various informal owner finance agreements that result in no transfer document being filed on the county deed records. FEMA needs to make clear that these forms of ownership are not bars to receiving assistance. That information should be conveyed upfront to FEMA applicants

and FEMA workers should be trained in this policy to prevent denials or delays occasioned by denial appeals.

- L. **FEMA Verified Loss (FVL) fails to fully reflect actual loss.** Some of the lowest-income Hurricane Harvey survivors living in massively substandard conditions have been denied CDBG-DR housing assistance (especially affordable rental housing) because the bureaucratic eligibility process has determined they have “no unmet need” according to FEMA. In the role of administering the CDBG-DR home rebuilding program, state agencies base eligibility calculations on what is called “FEMA Verified Loss” — the loss that a hurricane survivor sustained, according to FEMA. This determination is based on the storm’s impact solely on people’s property, rather than giving considerations to the loss of housing by renters. According to IAPPG p 96, FVL is calculated as a “verified loss-amount of at least \$12 per square foot.” In order to be considered an unmet need in this methodology, a household’s FVL must be at least \$8,000 for owners and \$2,000 for renters. In Hurricane Harvey, 58% of FEMA-eligible extremely low-income renters and 54% of renters at 30-50% of the area median income are below this FEMA threshold and thus not considered to have unmet needs during Hurricane Harvey. Homeowners with clearly damaged homes have been told they have a FVL of \$0 and therefore, do not have any unmet need and do not qualify for assistance. This methodology further widens the gap in ability to recover between low-income survivors and those well off because, in administering CDBG-DR, the state uses this data to apply for assistance, allocate the funds regionally, as well as divide the allocated funding between homeowners and renters. We are aware that FEMA’s reaction to this might be to state that this is a problem of the states misusing FEMA data. We would reject that argument because FEMA is the only authoritative data source available to establish individual needs as a result of the disaster. In other words, it’s the only data available and follow up recovery programs are going to use it. Second, such an argument would be an example of FEMA “siloeing” it’s programs off from subsequent recovery programs like CDBG-DR. If the goal is to help Americans recover from disaster, FEMA needs to be cognizant of the importance of its role in presenting data that can be useful to achieve the recovery. We recommend that FEMA analysts utilize an equity framework and instead relate a household’s FVL to a household’s income in order to consider the level of impact on a household, rather than only the impact on their property. We would point to Issue #2 of our comments submitted to state of Texas Hurricane Harvey Action Plan to further breakdown the methodology and recommendations found here:

<https://www.scribd.com/document/372077298/Supplemental-Comments-to-GLO-Draft-Action-Plan-2-20-18>

***(FEMA QUESTION 2) Are there FEMA programs, regulations, and/or policies that do not bolster resilience to impacts of climate change, particularly for those disproportionately impacted by climate change, and, if so, what are they? How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to bolster resilience to the impacts of climate change?***

There are FEMA programs, regulations and policies that do not bolster resilience to impacts of climate change, particularly for those disproportionately impacted by climate change. We will enumerate those programs, regulations and polices below and propose solutions to deliver resources and benefits more equitably.

- A. **Discriminatory emergency preparedness and evacuation practices that leave people of color and marginalized populations at extreme risk.** According to FEMA, “the Office of Response and Recovery provides guidance leadership and oversight to build, sustain and improve the coordination and delivery of support to citizens and state, local, tribal and territorial governments to save lives, reduce suffering, protect property and recover from all hazards.” FEMA states on P36 of IAPPG that it will “developing contracts, pre-scripted mission assignments, agreements, and other mechanisms to provide resources, programs, and services to support mass evacuees.” State programs like the State of Texas Emergency Assistance Registry (STEAR), which is “a free registry for Texans of any age that needs additional assistance during an emergency event due to a disability, functional and/or access need, or lack of transportation for evacuation” do not really work and actually increase the risk of loss of life for marginalized populations. Recent experience with this FEMA-backed program shows that citizens have never received any type of information, much less assistance, from these crucial programs. The incompetent coordination of appropriate emergency response between the federal and state agencies is especially evident in the areas with concentrations of people of color living with low-incomes and in communities with persons living with disabilities. In order to measure the effectiveness of FEMA, state and local disaster preparedness planning, Texas Housers staff embedded themselves in a low-income community in Galveston in the lead up to and the evacuation preceding Hurricane Laura in August 2020 to report on the effectiveness of disaster information, preparedness and evacuation. We found a chaotic, dangerous and confused evacuation stemming from both the failure to plan for evacuation and the failure to treat the residents of this marginalized community equitably. Our report, “Close Call: Lessons from the Hurricane Laura evacuation of a HUD-subsidized apartment in Galveston,” can be accessed at: <https://texashousers.org/2021/03/29/texas-housers-hurricane-laura-evacuation-report/>. Fortunately, Hurricane Laura veered away from Galveston. It is apparent that the same scenario that we witnessed with Hurricane Katrina in which low-income people of color were abandoned by authorities in the week of a hurricane are set to repeat themselves again. While much of disaster preparedness depends upon actions on the part of state and local government, FEMA must provide oversight, guidance and direction in association with its provisions of funds to state and local governmental agencies who receive FEMA grants to implement emergency evacuation programs. Perhaps no place that we have observed is more subject to racial discrimination and mistreatment of marginalized populations than can be found in the evacuation planning and execution processes. The importance of cross-governmental collaboration is expanded in 10C.

***(FEMA QUESTION 3) Are there FEMA programs, regulations, and/or policies that do not promote environmental justice? How can those programs, regulations, and/or policies be modified, expanded, streamlined, or repealed to promote environmental justice?***

There are FEMA programs, regulations and policies that do not promote environmental justice. We will enumerate those programs, regulations and policies below and propose solutions to deliver resources and benefits more equitably.

- A. **FEMA IA and PA policies and rules fail to provide disincentives or alternatives to forced rebuilding in places where there are environmental hazards or civil rights law violations.** Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of

1968 along with a number of other federal laws and Executive Orders outlaw housing discrimination against persons based on race and national origin and the denial of equal access to the benefits of federal programs. In practice, FEMA IA and PA programs do not comply with these laws nor does FEMA effectively monitor the performance of state and local governments it provides funds to for compliance with these laws. One of the main areas this shows up in are the policies that force disaster survivors to rebuild their homes in hazardous and racially segregated and environmentally blighted areas. In many states, particularly in the south and explicitly in Texas, Jim Crow era Housing patterns with their extreme levels of segregation are the norm. FEMA fails to affirmatively further fair housing or to make housing options available outside of these racially segregated areas to persons receiving IA. There are many cases in which FEMA has effectively locked people into rebuilding in hazardous areas. IA funding is specifically tied to the affected residence. Programs are linked to the rehabilitation of that home in that location in the form of requiring reimbursements to be for work done to that home or PREPS repairs tied to that home. This crucial funding could be utilized to move the affected household out of the hazardous areas instead of wasting the funding on a home that should not be repaired in the first place because the area is substandard for safe and sanitary housing. The importance of cross-governmental collaboration to properly utilize immediate and long-term recovery funds is expanded in 10C.

***(FEMA QUESTION 4) Are there FEMA programs, regulations, and/or policies that are unnecessarily complicated or could be streamlined to achieve the objectives of equity for all (including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality), bolstering resilience to climate change, or addressing the disproportionately high and adverse climate-related impacts on disadvantaged communities in more efficient ways? If so, what are they and how can they be made less complicated and/or streamlined?***

There are FEMA programs, regulations and policies that are unnecessarily complicated that could be streamlined to achieve the objectives of equity for all (including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality) bolstering resistance to climate change, or addressing the disproportionately high and adverse climate related impacts on disadvantaged communities in more efficient ways. We will enumerate those programs, regulations and polices below and propose solutions to deliver resources and benefits more equitably.

- A. **Difficult to access FEMA website.** We encourage FEMA to assess the transparency within the agency in its entirety. Finding the policy and procedure documents for FEMA programs simply to comment on this RFI was an undertaking in itself. FEMA's website is difficult to access, difficult to navigate, has many broken links, and the side navigation bar changes based on what page you are on. Inconsistencies are throughout the agency's website which discredit the validity of the information.
- B. **Unnecessarily complicated process to access data from FEMA.** As an example, in order to request for copies of assistance file, in other words, for an applicant to be resent paperwork they have previously received, according to P67 of IAPPG, an applicant must either mail or fax a written request with the following information: Applicant's full name, Applicant's FEMA Application Number and Disaster Number, Damaged property address and current mailing address, Applicant's date and place of birth, Applicant's

signature with either a Notary stamp or seal; or the statement “I hereby declare under penalty of perjury that the foregoing is true and correct.” This requirement is excessive and significantly infringes on the agency’s transparency and the applicant’s ability to navigate the process without exception. Many times, other programs, like CDBG-DR home repair programs, ask for these documents. The restrictions imposed on applicants puts those who do not have access to these documents significantly behind in their recovery while they wait for FEMA to respond and mail the documents they requested. This is one example of the overly complicated nature of FEMA that does not support or trust the persons they are supposed to serve and make a bureaucratic process out of the simplest needs. FEMA should assess where else they are creating complicated barriers that adversely affect disadvantaged communities significantly.

- C. Temporary housing programs disadvantage and disparately treat low-income and other marginalized and underserved populations.** The temporary housing FEMA provides has been a persistent issue over many disasters. FEMA’s model for household recovery is designed for households which have at least moderate pre-hurricane incomes, can bear some up-front expenses and can expect to be reimbursed for a portion of the cost of rebuilding their homes from their private insurance. It also assumes the resources exist in the household or through their insurance to get rehoused relatively quickly. In practice, this means that FEMA expects to provide temporary housing for only a relatively short duration of time while the area recovers, the household goes back to work, applies for and receives reimbursement from homeowners insurance for housing damages and secures the necessary repairs to get back into their home. Lower-income renter households, however, must be temporarily housed for an extended period of time while government and the private sector work out financing for the reconstruction of affordable rental housing. In Texas, the rebuilding process for low-income families relying on the CDBG-DR program over the past four major hurricanes takes anywhere from 3 to 8 years. These families lack the assets to temporarily rehouse themselves. FEMA-approved hotels normally come with other disadvantages. Low-income survivors in rural areas struck by Hurricane Harvey faced particular challenges in returning to their jobs and communities. In Victoria, Texas, where the closest FEMA-approved hotel is 100 miles away, displaced residents face extraordinarily long commutes or the loss of their jobs. The Stafford Act, the controlling statute for the administration of FEMA’s Individuals and Family Assistance Program, caps the maximum benefit FEMA is allowed to expand to provide temporary housing and emergency repairs to a household at \$28,800. FEMA incurs additional costs in the form of the cost of acquisition of trailers for temporary housing.
- a. During the Hurricane Ike recovery program (as well as other subsequent natural disasters such as Superstorm Sandy), FEMA and HUD entered into a joint agreement for HUD to administer a FEMA funded temporary housing assistance program called the Disaster Housing Assistance Program (DHAP), which is now called the Disaster Voucher Program, or DVP. DVP uses vouchers to provide temporary rental housing for disaster survivors, utilizing the administrative infrastructure of local public housing authorities, which already administer vouchers under HUD’s Housing Choice Voucher Program. DHAP was a significant improvement over previous hotel-motel programs and the approach in Houston after Hurricane Katrina. Providing temporary housing through DVP does not overly concentrate families with extremely low incomes in existing high poverty areas or in apartment developments where all of the tenants have low incomes. In order to provide adequate housing opportunities for survivors with



local and state government agencies and to public interest organizations. Procedures should be put in place to safeguard individually-identifying claims data from being made public while still providing a granularity of geographic location to permit the assessment of needs at the neighborhoods level. Individual FEMA claims data should also be accessible by outreach workers to use to contact eligible survivors about applications for low-term recovery assistance.

***(FEMA QUESTION 5) Are there any FEMA regulations and/or policies that create duplication, overlap, complexity, or inconsistent requirements within FEMA programs, other DHS components, or any other Federal Government agency that impact equity, resilience to the effects of climate change, and/or environmental justice? If so, what are they and how can they be improved or updated to meet the required objectives of equity, resiliency, and environmental justice?***

There are FEMA programs, regulations and policies that create a duplication, overlap, complexity, and inconsistent requirements within FEMA programs, other DHS components, and other federal government agencies that impact equity, resilience to the effects of climate change, and environmental justice.. We will enumerate those programs, regulations and policies below and propose solutions to deliver resources and benefits more equitably.

- A. **Poor coordination for subsidized housing survivors.** P61 of the IAPPG states that FEMA works closely with HUD to determine what assistance can be given to subsidized housing households “because FEMA may not duplicate assistance with any other Federal program.” The document also states that if the HUD assistance is offered to the household, they are no longer eligible for FEMA temporary housing assistance. This is not only an issue of income discrimination for low-income survivors, but it is also a barrier to finding stable housing in a pigeonhole housing market that is already devastated by disaster. The household must now navigate to find another viable housing option, that may be outside of their choice neighborhood, that will accept the HUD assistance. A possible solution is for FEMA to take over the temporary housing assistance entirely so disaster survivors may have the freedom to find housing that is not tied to HUD assistance while the area is still recovering. FEMA and HUD must work together to fully support low-income households that were already in a difficult situation before the disaster affected their home.
- B. **Homelessness population are also disaster survivors.** FEMA’s assistance policy (P61) for the homeless population is undeniably discriminatory. Homeless people living in shelters or unsheltered on the street do not qualify for any housing assistance and are only “eligible for certain types of ONA (Transportation Assistance, Medical and Dental Assistance, Funeral Assistance, and Child Care Assistance).” Those who had a minimum of a tent can qualify for housing assistance. FEMA should coordinate with local organizations to provide shelter options post-disaster to the homeless population while encouraging permanent housing options while the homeless population is being reached.
- C. **No coordination with HUD CDBG assistance.** The disaster recovery mechanism is divided between multiple government agencies. The federal government is divided into two — immediate response and long-term recovery efforts led by FEMA and HUD, respectively. The state government will receive funds provided by the federal

government; as expanded in point 10C. There are at least three entities in Texas designated for receiving disaster recovery funds. The lack of coordination between the various entities charged with administering recovery dollars makes the overall recovery process more complicated. If programs FEMA temporary housing programs allowed funds to be used also as permanent repair dollars in a way that CDBG-DR funding can build on, like the RAPIDO housing solution explained in 10B, or if FEMA funds could support relocation efforts of families living close to environmental hazards as noted in 3A, the impact of FEMA dollars would be greatly enhanced.

**D. Needs Assessment as a point-of-entry to subsequent disaster recovery programs.**

As mentioned, the Needs Assessment is the first of many applications for recovery that applicants are forced to submit. It is crucial for governments that survivors submit information to the Needs Assessment to have a more realistic assessment of the amount of unmet need. However, this is not an application for aid and that is confusing for many survivors. An applicant is asked to also submit an application for FEMA. Applicants may be confused between these two processes and may only do one or the other. Applicants are also forced to apply separately to obtain housing assistance from the CDBG-DR program. Government agencies have pushed significantly to improve outreach in order to target all the survivors in need. If the government wanted to fully capture those who are recovering, the Needs Assessment would be used as a first point of entrance into the disaster recovery mechanism. Governments would no longer need to wait passively for applicants to come to them applying for FEMA or CDBG-DR funds. Government agencies should share this data to make sure that survivors who have been touched by any of the programs do not get lost in the disaster recovery apparatus. Government agencies argue that many people recover quickly and do not need the subsequent applications. However, it is easier for agencies to withdraw people from a program after confirming they no longer need assistance that it is for survivors to continue advocating for their need and possibly miss the information, therefore losing the opportunity to recover.

***(FEMA QUESTION 6) Does FEMA currently collect information, use forms, or require documentation that impede access to FEMA programs and/or are not effective to achieve statutory, regulatory, and/or program objectives? If so, what are they and how can FEMA revise them to reduce burden, save time or costs, increase simplification and navigability, reduce confusion or frustration, and increase equity in access to FEMA programs and achieving statutory and/or regulatory objectives?***

FEMA currently collects information, forms and requires documentation that impedes access to FEMA programs that are not effective to achieve statutory, regulatory, and program objectives. We will enumerate such documentation, Information, and forms below and propose solutions to deliver resources and benefits more equitably.

- A. Overburdened applicant.** We have touched on this topic in 1D and 4B. It is worth repeating that the line of documentation asked of applicants to apply or reapply for continued support is overwhelming and FEMA must work with other government bodies to lift these burdens. Identification verification documents are required to contain a social security number. If the applicant does not have documentation readily available, normally due to flooding, FEMA must work with the social security office to collect this information. Putting the burden on the applicant makes them go through the process of

dealing with SS office and waiting for the documentation to process puts them behind and creates more struggles on an impacted individual. In order to reapply for continued rental assistance, applicants must renew after two months and must submit rent receipts for previous assistance, income documentation for all household members, proof of all housing expenses before and after the disaster, and a copy of the current rental agreement. Survivors may have lost so much of this during the disaster and are being asked to *prove* their income and expenses while the issue is displacement is indisputable if their home is uninhabitable.

- B. **Disaster Case Managers.** Past disasters have shown that navigators dedicated to assisting people through the bureaucratic aspects of the recovery process are essential to disaster survivors being able to successfully apply for and receive FEMA assistance. Case managers, or “navigators,” should be assigned permanently to disaster survivors to navigate them through the entire recovery process, from the shelters to obtaining permanent housing, including: (1) the process of getting out of the shelters; (2) applications for FEMA assistance; (3) FEMA appeals, (4) resolving problems that develop over time regarding FEMA assistance and temporary housing; and (5) applying for and receiving repairs or rebuilding assistance through CDBG-DR funded programs. This would be possible if FEMA’s Needs Assessment was the point-of-entry for the entire disaster recovery mechanism and navigators would follow and assist applicants through the course of their recovery.

***(FEMA QUESTION 9) Are there existing sources of data that FEMA can use to evaluate the post-promulgation effects of regulations over time? Or, are there sources of data that FEMA can use to evaluate the effects of FEMA policies or regulations on equity for all, including individuals who belong to underserved communities?***

There are existing sources of data that FEMA can use to evaluate the post-promulgation efforts of regulations over time. Furthermore, there are sources of data that FEMA can use to evaluate the effects of FEMA policies and regulations on equity for all, including individuals who belong to underserved communities. We will enumerate these data and data sources below and propose solutions to deliver resources and benefits more equitably.

- A. **FEMA fails to collect data for the IA and PA programs that are necessary to assess civil rights and Fair Housing compliance.** FEMA’s data lacks significant information that helps assess demographic needs and create a real picture of need that is correlated to household statistics rather than causal based on limited information, specifically tied to race and ethnicity. The coordinated collection and compilation of data on disaster victims is necessary so there is a clear picture of who these people are and what their needs are. The government should build upon the Coordinated Assistance Network (CAN), a powerful database created by seven of the nation’s leading nonprofit disaster relief organizations. CAN was a first attempt to solve the problem of the lack of fluent information sharing. CAN allows its users “to share secure, up-to-date information about clients and services being provided to them by partnering agencies” This database should have information such as age, income, family composition, housing tenure, employment status, income sources, level of educational attainment, and disability status. Having this information is crucial to being able to predict families’ post-disaster housing needs and their likely level of economic attainment. This information will enable the government to better be able to meet the needs of disaster victims.

- B. Updated Flood maps and Flood Insurance Rate Maps.** The FEMA flood maps and Flood Insurance Rate Maps (FIRMs) are woefully out of date and inaccurate for the impacted areas and need to be updated. Communities in the Harvey impacted areas have experienced three “500-year” flood events in the past few years, and many of the areas inside and outside of the 100-year floodplain are subject to frequent flooding. Eighty percent of homeowners affected by Harvey did not have flood insurance. The percentages are much greater among people of color and other marginalized populations. As a result of the inadequate maps, it is very difficult for average consumers to make informed decisions about where to live and to determine their home’s risk of flooding. People with more financial resources are able to hire engineers and inspections to inform their home repair and home purchase decisions, while lower-income households and marginalized persons must depend on outdated FEMA maps. Immediately, before any rebuilding takes place, the cities, counties and state should work with FEMA to revise the flood hazard areas. The failed rollout of the Biggert-Waters Act of 2012 has also meant that flood insurance premiums continue to be based on outdated and inaccurate maps.

***(FEMA QUESTION 10) What successful approaches to advance equity and climate resilience have been taken by State, local, Tribal, and territorial governments, and in what ways do FEMA's programs present barriers or opportunities to successful implementation of these approaches?***

There are successful approaches to advance equity and climate resilience that have been undertaken by state, local governments. We will enumerate those programs, regulations and policies below and propose solutions to deliver resources and benefits more equitably.

- A. Partial Repair and Essential Power for Sheltering (PREPS) does not work for many marginalized populations, also known as STEP.** While we believe very much that FEMA should operate a program to immediately weatherize and secure damaged homes from suffering further water infiltration and deterioration, our extensive experience with the PREPS program in the Houston region has shown that this program is not working as implemented following Hurricane Harvey. The problem is that the assumption that the level of repairs to a home provided under the PREPS program will be sufficient to allow a household to live in that home while awaiting eventual rebuilding funds from CDBG-DR is flawed. In administering the CDBG-DR program, the State of Texas typically takes between three and eight years to complete the reconstruction of homes. The level of repairs the PREPS program provides is simply not sufficient to allow a family to continue to occupy the home in a safe manner over such an extended period of time. Furthermore, there are certain populations of marginalized persons such as persons with disabilities, the elderly and other people with health issues who simply should not be consigned to live in a home that does not meet basic building standards such as a PREPS repaired home. The practical effect of the program is to consign a very large portion of low income families of color and other marginalized individuals to live for many years in hazardous conditions while people with more financial resources are accommodated under FEMA programs to quickly get back into safe and habitable homes.
- B. FEMA policies impede the adoption of cost and time effective “temporary to permanent” housing solutions (such as RAPIDO).** We discuss above how the

housing experience of low-income survivors and especially low-income survivors of color is often vastly different than that of middle- and upper-income survivors. This suggests that FEMA's approach to IA and temporary housing assistance should be created to meet the particular needs of the lower-income survivors, while still affording them the same options as higher-income households. We strongly suggest FEMA consider implementing this more tailored approach. RAPIDO (<http://www.rapidorecovery.org>) is an approach to housing that is built to deal with the situation of very low-income survivors and the complexities of government disaster recovery policy. It's genius is that it complies with the complexities of government regulatory requirements while being designed to meet the individual needs of a family to have a say in creating their home. The idea that a family will temporarily live in a core of the home is where RAPIDO accommodates the complexities of government requirements. FEMA funds are available just days after a disaster strikes. But under federal law right now, FEMA can only provide temporary housing. FEMA can sometimes expend between \$70,000 and \$100,000 to deploy a trailer as temporary housing. FEMA also funds hotel/motel vouchers that pay large amounts for survivors to live in cramped motel rooms for many months. Both of these temporary housing solutions contribute not one cent to a family's permanent housing solution. Within a week or so of a disaster striking, RAPIDO builds a small "core" structure on the property. The core can be built in three days. It is slightly larger than a FEMA trailer. This "core" is a temporary home for a family until the HUD CDBG funds are appropriated and available to the state and local governments to build the rest of the home. This is also a permanent part of the final house. This is where a huge cost savings comes from. By saving the cost of the FEMA temporary housing, this program permits significantly more households to be assisted with the available funds. Instead of buying and disposing of a FEMA trailer or paying for hotel and motel rooms for months, that money is used instead to temporarily house the family in a neighborhood and the CDBG is used to build the rest of their permanent home around this core. This is another reason why inter-governmental work is so crucial. The cost of the temporary housing unit in the RAPIDO housing model is closer to \$30,000 and the cost of the finished completed permanent structure is \$55,000 more, bringing the total replacement house cost to approximately \$85,000. By saving the cost of the FEMA temporary housing, this program would permit significantly more households to be assisted with the available funds.

- C. **Establish statutory protocols and oversight for recovery efforts.** FEMA frequently states its desire to "devolve" responsibility for program administration from the FEMA to state and local governments. FEMA officials frequently state there is more expertise and capacity to administer recovery programs at the local level. This is not our experience. State administration of recovery programs has been generally poor in Texas. However, if FEMA is going to continue to embrace the devolution of authority, it needs to put in place two important safeguards. First, as we discuss in earlier comments, FEMA must insist on procedures and monitoring to protect the civil rights and Fair Housing rights of survivors in state and local program administration. At the very least, FEMA must greatly expand the civil rights oversight and enforcement function within FEMA and work with groups like Texas Housers to address Title VI and Title VIII violations that groups like ours uncover with state and local program administration. While we frequently bring HUD complaints of such violations, we are not aware of any equivalent enforcement commitment or process within FEMA. Second, instead of FEMA rhetorically proclaiming the universal superiority of local program administration over federal administration, FEMA needs to ensure that capacity actually exists at the state before delegating program responsibility. Over the past twelve years in Texas,

responsibility at the state level for long-term disaster recovery has shifted among three different state agencies: the Texas Department of Housing and Community Affairs, the Texas Office of Rural Affairs and the Texas General Land Office. The result has been massive delays, inefficiencies stemming from a combination of inattention to following federal laws and regulations and a lack of formal institutional capacity over time to design and administer disaster recovery programs. The desultory has been unconscionably long program startup times and delays in beginning long-term recovery programs. By instituting proper civil rights oversight combined with requiring states to designate a permanent lead state agency for disaster recovery, FEMA may properly develop collaborative efforts across government agencies.

- D. Delays in rebuilding of homes of low-income and other marginalized and underserved populations can be improved by improving coordination of government-funded recovery efforts with faith-based and community groups volunteer repairs.** The experience in past disasters has been that too often volunteer and faith-based organizations undertake intermediate levels of partial demolition and repairs to homes which are later demolished and rebuilt with government long-term disaster recovery funds. Most often, the impacted structures are the homes of people of color or other marginal populations. This is a waste of valuable resources and volunteer labor which should be addressed by better planning and coordination. It is vitally important that these voluntary activities be appropriately coordinated with FEMA and CDBG-DR program requirements in order that the volunteers' contributions are effective in the recovery process. To oversee these cross-sector collaborations, a special advisory board should be created, composed of major voluntary and faith-based organizations, the National Guard, key representatives of FEMA and the administering agencies of the state's CDBG-DR program. In theory the Volunteer Organizations Active in Disasters (VOADs) should fill this role. In practice, too often, they do not.

It is nearly impossible to address every concern over FEMA's existing programs and policies in a single comment. We applaud the Biden Administration for issuing Executive Orders 13985, 13990 and 14008 to assess the agency's issues that perpetuate system barriers of racial inequity and climate injustice. We believe that in order to make true, meaningful change, true and meaningful actions must be taken. Texas Housers has been addressing FEMA policy issues since 2008. We hope this comment opportunity is the first step towards FEMA reforms that work to benefit those disaster survivors who too often are encounter discrimination and denial of assistance. We ask FEMA to consider meeting Texas Housers and other disaster advocates and impacted communities around the nation to have a more substantive and impactful conversation. We would also be happy to submit any and all research and recommendations Texas Housers has offered to the federal government in the past that relate to this matter.

Sincerely,



Julia Orduña  
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Texas Housers