

July 22, 2024

The Honorable Deanne Criswell
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20472
Submitted via www.regulations.gov

Re: Docket ID: FEMA-2023-0003 Individual Assistance Program Equity

Dear Administrator Criswell:

Thank you for the opportunity to comment on FEMA's Individual Assistance Program Equity Rule (Rule).

Texas Appleseed¹ is a non-profit public interest justice center that promotes social, economic, and racial justice for all Texans. We have worked on disaster recovery issues and to ensure equity for all families and communities in disaster recovery programs since Hurricane Rita in 2006. Our comments below are informed not only by our experience as disaster recovery advocates, but also by our work with legal services attorneys representing survivors in the FEMA application and appeals process, community-based organizations, underserved communities, and disaster survivors themselves.

Texas Housers' (Texas Low Income Housing Information Service) mission is to help low-income Texans achieve the American dream of a decent, affordable home in a quality neighborhood. Through research and evaluation of affordable housing programs and organizing and empowering low-income communities, Texas Housers works with community advocates affected by low-income housing issues across the state of Texas to advocate policies at the state and local level that champion affordable housing, the creation and protection of renters' and homeowners' rights, and equity and fairness in government response to disasters that impact low-income housing.

The Rule is a critical step towards fairer and more effective Individual Assistance for disaster survivors and well-supported by law and practice.² However, it is not enough for FEMA to change its policies. Disaster survivors with past FEMA experience often do not view the agency

¹ Texas Appleseed's mission is to promote social and economic justice for all Texans by leveraging the skills and resources of volunteer lawyers and other professionals to identify practical solutions to difficult systemic problems. Texas Appleseed conducts data-driven research to uncover inequity in laws and policies and identify solutions for lasting, concrete change.

² FEMA's authority to adopt these regulations is well-established under the Stafford Act and consistent with clear Congressional intent to address barriers to assistance for the most underserved disaster survivors and communities. These regulations also increase FEMA's compliance with the non-discrimination mandates of the Stafford Act at 42 U.S.C. § 5151.

as a viable avenue for assistance.³ Advocates in Houston that have been urging disaster survivors to apply for FEMA after Hurricane Beryl have been told “it’s not worth it” and that help from FEMA is a “unicorn.” To regain public trust and make the policy changes listed in the IFR effective, **FEMA must train staff and contractors on the new policy, provide accurate and timely information to disaster survivors, and be transparent when providing information to the public.**

Beyond policy changes and training, making the FEMA Individuals and Households Program equitable will require an interagency cultural shift. For decades, FEMA has made the application process more difficult for disaster survivors, by requiring specific paperwork on tight deadlines, in the name of preventing fraud. In practice, these burdens prevent disaster survivors – especially applicants who have a disability, are elderly, or have limited English proficiency – from accessing much-needed assistance. Throughout the process of implementing the policy changes listed in the IFR, FEMA must shift its approach to center the applicant, making it easy for eligible applicants to receive the assistance available for them.

In the four months since the Rule went into effect, disaster vulnerable groups have seen limited changes in their access to FEMA Individual Assistance. A recent analysis compared similar-sized storms before and after the March 22, 2024 Equity Rule enactment and found mixed results for access to FEMA Individual Assistance across marginalized groups.⁴ The analysis found no improvements in access to Rental Assistance or Replacement Assistance for applicants who are low-income, elderly, renters, or mobile home residents. The same analysis found that low-income applicants had greater access to Repair Assistance but there were no improvements for other elderly, renter, or mobile home residing applicants. These findings indicate that more work is required to realize the goal of equitable access to FEMA assistance.

Our more specific comments on the Rule are below, but the necessity of ensuring policy changes are implemented effectively and fairly is central to every issue we raise.

I. Public Participation

We request an extension of the Equity Rule comment period through the end of hurricane season. While we appreciate that FEMA has already provided an extensive comment period, FEMA is currently implementing the rule on a broad scale for the first time. Some of the most valuable information FEMA may receive in comments is about how the Equity Rule is being implemented and applied in practice, and whether the agency needs to make adjustments or changes in order to ensure that the rule is improving the provision of disaster recovery assistance to survivors in the way FEMA intended. We also note that in Texas, many of the survivors and community-based organizations that could provide critical feedback on the Equity Rule are currently dealing with the aftermath of two major disasters, DR-4781-TX and

³ Duffy, M., & Shaefer, H. L. (2022). In the Aftermath of the Storm: Administrative Burden in Disaster Recovery. *Social Service Review*, 96(3), 507–533. <https://doi.org/10.1086/721087>

⁴ De La Torre, Cristina M. July 2024. “Comparative Equity Analysis of FEMA’s New Equity Rule.” Oakland, CA: Just Solutions.

DR-4798-TX (Hurricane Beryl). In some areas of Texas, survivors are still without power and focused on basic survival.

Requests for information and administrative action through the federal register are important opportunities for comment and public input. The public comment process, however, is not necessarily the best way to elicit input from the disaster survivors and underserved communities most affected by FEMA's Equity Rule, and from whom FEMA has specifically said it wanted input and feedback. FEMA should be conducting direct and ongoing outreach to these households and communities. FEMA should also reach out directly to legal services organizations who represent individual disaster survivors and community-based organizing and advocacy organizations who are ideally-positioned to help FEMA understand how the implementation of the new FEMA rules is occurring on the ground and what changes would be effective but also face barriers to participation in the comment process.

We request that FEMA respond to comments in any final action, including any additional changes to FEMA's regulations based on comments received.

III. Background

B. Impacts of Climate Change on Disaster Assistance

Climate change has put an incredible strain on our federal disaster recovery system, so FEMA must present a proactive, agency-wide plan to address the increased threat, especially to marginalized communities, beyond the present amendments to the Individuals and Households Program. FEMA must also broaden its current guidance to encapsulate the modern disaster environment of concurrent disasters, extreme heat, utility failures, and limited insurance options.

Only one line of the Federal Register notice acknowledges the disparate impact of climate change on marginalized populations, reflecting the historical underemphasis on empowering marginalized communities to mitigate the impact of climate change. The current list of FEMA IHP revisions and the introduction of the Community Development Resilience Zones program are promising recent advances but must be part of a broader comprehensive strategy for mitigating the increased vulnerability of some marginalized communities. Beyond planning, FEMA must work quickly to address the shortcomings of the National Risk Index. A recent analysis from the National Low Income Housing Coalition found that the NRI may not fully capture racial and ethnic disparities in disaster risk among renters, especially for Black and Hispanic households.⁵ This tool must be refined to more accurately reflect the disparate risks faced by marginalized communities, as it is currently being used by federal agencies for disaster resource allocation.

FEMA needs to provide clarity on how applicants can manage Individual Assistance applications when their homes are hit by multiple natural disasters. This is the reality currently

⁵ Aurand, A. (June, 2024). *The National Risk Index and Racial Equity for Renters*.

faced by many Texans who survived a derecho storm, Hurricane Beryl, and extreme heat in quick succession. When your home is damaged by multiple disasters, documenting damage and submitting multiple applications can create confusion during a traumatic time for families. This confusion is compounded when, as was the case with Hurricane Beryl, electricity and cell phone service are disrupted for long periods of time. These utility failures are not a new phenomenon – these experiences closely match the impacts of the 2021 Winter Storm Uri that killed over 900 people in Texas. Utility disruptions further emphasize the need for streamlined assistance (for instance, by removing the home inspection requirement for Serious Needs Assistance, and lengthening application periods to account for communication disruptions).

C. Equity in Individual Assistance

FEMA must ensure that its programs are accessible to all disaster survivors, including people with Limited English Proficiency (LEP) and people with disabilities.

In the IFR language, FEMA insists that its employees are multilingual or bilingual and equipped to assist LEP survivors yet, in practice, FEMA IA access is still functionally inaccessible for many applicants with limited English proficiency. For example, after Hurricane Fiona in Puerto Rico, the wait times for Spanish-language assistance over the phone were hours longer than the English-language hotlines. This phenomenon has continued at DRCs in Texas throughout this hurricane season, with disaster survivors who need translation services being told to come back at a later date. **FEMA must ensure that it has sufficient resources to provide both spoken and written interpretation in the most spoken languages in a disaster affected area.**

FEMA must make its programs accessible to people with disabilities, including American Sign Language translation, geographically and physically accessible DRCs, and any other reasonable accommodations necessary. FEMA should proactively conduct outreach to people with disabilities to ensure that these survivors know that FEMA help is available and that they have a right to what they need to access disaster recovery programs.

The current application questions related to accessing functional needs are insufficient for assessing applicants' disability-related accessibility needs. FEMA needs to improve its process for identifying survivors with language access and disability-related accessibility needs. and track them through the IA process to ensure that the needs of these survivors are recognized and met at every stage of the application, eligibility, and appeal process. This process must include a clear and public process for requesting reasonable accommodations or modifications and include documentation of that request in the applicants' file.

FEMA must make sure that communication with survivors is clear and transparent. FEMA forms and letters should be written in plain language, clearly explain the eligibility requirements for programs, and how survivors can document their eligibility. Too many disaster survivors remain unaware of the steps required to access FEMA assistance and where to access in-person application assistance. Giving survivors this information - for example, the type of

documentation they can use to show ownership - early in the application process will reduce the number of denials.

IV. Discussion of the Interim Final Rule

B. Section 206.110 Federal Assistance to Individuals and Households

We support the addition of paragraph (b)(2) to 206.110 specifying that “[t]he maximum amount of financial assistance excludes expenses to repair or replace eligible damaged accessibility-related real property improvements and personal property for individuals with disabilities” which ensures that Individual Assistance is provided to persons with disabilities in a non-discriminatory way.

We are concerned, however, that the provisions of the IAPPG referenced in the Rule limit “accessibility related real property improvements” to exterior ramps, grab bars, and paved paths of travel to the primary residential entrance, and “personal property” accessibility items to a computer, if used as the sole means of communication for a household member, raised toilet seat, front-loading washer if a member of the household uses a wheelchair or has a similar mobility limitation, side-by-side refrigerator if a member of the household uses a wheelchair or has a similar mobility limitation, hospital bed, walker, wheelchair, shower chair, specialty smoke alarm, and TTY/TDY telephone without providing any flexibility for other accessibility components that could meet the needs of the person with a disability.⁶ At minimum, we recommend that the following components, tied to essential living spaces like the kitchen, bedroom, living room, and bathroom, be included in order to make the survivor’s home meaningfully accessible:

- Gate entrances out of apartment structures
- Accessible storm shelters
- Yard fencing for service animals
- Powered access and egress devices
- Visual Smoke Alarms
- Elevators
- Lifts
- Whole house generators
- Inverters
- Interior ramps
- Visual doorbells
- Widened doorway
- Raised toilet seats
- Smart toilets
- Shower Chairs
- Roll-in showers

⁶ [Individual Assistance Regulation Implementation IAPPG Amendments - 3.22.24](#) at 11 and IAPPG Version 1.1 at 146.

- Accessible tubs
- Beds (hospital type)
- Bed shaker alarms
- Ceiling lift track systems
- Washers (front-loading) if a member of the household has a similar mobility limitation
- Refrigerators (side-by-side) if a member of the household has a similar mobility limitation
- Adjustable countertops in kitchen
- Computers, when used for communication
- Walkers
- Wheelchairs
- Standing recliner chairs.

C. Section 206.111 Definitions

We strongly support the inclusion of Oxford commas for grammar purposes.

Owner-Occupied

We appreciate that FEMA revised the definition of *Owner-occupied* in 206.111 to clarify and codify existing requirements that allow disaster survivors to use a range of documentation to verify ownership. However, neither the Stafford Act and its implementing regulations nor FEMA’s own policy guidance have ever required applicants to provide a deed or other proof of clear title to document “ownership” for purposes of Individual Assistance eligibility; the problem has always been how these policies were implemented during disasters. Historically, FEMA staff, contractors, and inspectors have required disaster survivors to submit title documents to document ownership, have refused to accept alternative documentation of ownership, and have failed to inform survivors that they can use alternative documentation of ownership, resulting in the wrongful denial of IA. Barriers to using alternative documentation of ownership disproportionately affect underserved communities. These communities include survivors living in territories that have different systems for recording land ownership, residents of mobile and manufactured homes, low-income families, and Black families.⁷

Even after FEMA’s September 2, 2021, *Amendment to FEMA Policy (FP) 104–009–03, Individual Assistance Program and Policy Guide (IAPPG), Version 1.1* went into effect survivors of Hurricane Fiona in Puerto Rico and Hurricane Ian in Florida in 2022 were still being asked for specific title documentation and were not informed that they could use alternative documentation, including self-declarative statements. In some cases, FEMA staff refused to accept self-declarative statements or discouraged applicants from even applying for assistance.⁸ FEMA’s failure to adequately implement its own policies on alternative

⁷ Hannah Drier and Andrew Ba Tran, “‘The Real Damage’ Why FEMA is denying disaster aid to Black families that have lived for generations in the Deep South” WASHINGTON POST, July 11, 2021. <https://www.washingtonpost.com/nation/2021/07/11/fema-black-owned-property/>; https://legalaidnc.org/wp-content/uploads/2024/04/NCORR-Heirs-Property-CA-VCA-signed_Redacted_Final-Final.pdf

⁸ See, e.g. Letter from the National Low Income Housing Coalition to The Honorable Deanne Criswell, FEMA Administrator, October 17, 2022.

documentation of ownership not only wrongfully denies survivors critical disaster relief funds, displaces families, frustrates the ability of communities to rebound, and threatens future climate resiliency, it violates Section 308 of the Stafford Act, which prohibits “discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.” **We recommend the following:**

- FEMA must continue to train FEMA employees and contractors about all acceptable documentation of ownership, including self-declarations, and to train staff and contractors to inform applicants of their options before and during the application process.
- FEMA should make self-declarative forms – and information clearly explaining the process for filling out a self-declaration form – available on its website, as an attachment to the IA application, and at Disaster Recovery Centers (DRCs). The forms should be translated into the top five most spoken languages in the area affected by the disaster.
- If FEMA determines an application is ineligible, in whole or in part, for lack of ownership verification, the eligibility letter it sends to the applicant must include not only the reason for the denial and information on how to appeal, but also a plain-language list of acceptable documentation that the applicant could use to support their appeal.

Safe and Sanitary

One of the most important provisions of the new IA Rule is the revised definitions of “safe” and “sanitary” which remove the term “disaster-related” and allow FEMA to provide assistance for repairs to make a disaster-damaged home safe and sanitary regardless of pre-existing conditions. This is consistent with 42 U.S.C. 5174 and will make the program more fair and equitable. FEMA’s past interpretations of these definitions, including the scope it has given to subjective decision making by property inspectors, has been a major source of inequity in the Individual Assistance program. The so-called “deferred maintenance rule” not only discriminated against disaster survivors based on economic status, but has also disproportionately denied homeowners based on their race, color, and national origin.

The importance of these changes is illustrated by the story of one Houston homeowner whose roof was damaged by Hurricane Harvey in 2017. He was unable to get help from City home repair programs because he was behind on his property taxes and has been ineligible for FEMA home repair assistance because of pre-existing damage. Unable to afford repairs, the homeowner has been trying to protect his home by periodically replacing the tarp covering his roof for over five years. When his roof was further damaged by the storms that struck Houston in May 2024 (DR-4781-TX), community-based organizers visiting his neighborhood told him that FEMA’s rules had changed and encouraged him to apply for help. He now has a new roof that helped protect his family and home from Hurricane Beryl.

While these habitability reforms have perhaps the greatest potential to increase equity and fairness in the Individual Assistance program, they may also be the most dependent on these reforms being implemented correctly by FEMA personnel and contracts in the field following a disaster. FEMA has both trained inspectors and built inspection tools to

identify potential pre-existing conditions and deny IA applications on that basis. FEMA says that “[i]n coordination with the publication of this rule, FEMA will ensure its training and instructional materials are updated to ensure all relevant FEMA staff are apprised of and are able to implement the changes.” We request that FEMA make those training and instructional materials public.

Providing repair assistance immediately after a disaster will not only help survivors return home more quickly - or in the case of many low-income survivors, prevent them from living in an unsafe and unhealthy home - it will ultimately reduce the cost of disaster recovery. Many survivors in Texas who were denied FEMA home repair assistance because of pre-existing conditions were later eligible for CDBG-DR home repair or replacement assistance, but because it often takes more than a year for CDBG-DR to be appropriated, allocated, and for programs to be up and running, homes that might have only needed a new roof in the immediate aftermath of a storm had to be completely rebuilt two years later. FEMA’s goal should be to provide as much assistance as possible - including appropriate mitigation measures - to not only to make disaster-damaged homes safe, healthy, and accessible, but to ensure that they are more resilient in the event of future disasters.

D. Section 206.112 Registration Period

Reducing the administrative burden on disaster survivors who file late applications is important for the reasons FEMA cites; it slows the provision of disaster recovery assistance and is likely to disproportionately burden underserved populations.

E. Section 206.113 Eligibility Factors

Insurance Proceeds

Changing the insurance settlement equation to meet a family’s unmet needs even when the net insurance settlement exceeds the IHP cap is a clear improvement to the existing formula. As noted in the Federal Register Notice, as the rule was previously written, it kept eligible but insured families from receiving the assistance that they need. Although this rule change is a positive step, further action is needed to remove insurance-related barriers for low-income applicants who are affected by multiple disasters and address the rapidly changing landscape of insurance availability.

Interviewing Hurricane Harvey survivors, we hear frequently that families cannot afford to maintain flood insurance. Between September 2021 and May 2024 the number of federal flood insurance policies in Texas dropped by 17%.⁹ Houston residents have faced multiple floods since Harvey, and these families find – often to their surprise – that the insurance requirements preclude them from receiving Individual Assistance again. FEMA must improve its communication with families about flood insurance, so that they are fully informed about the

⁹ <https://www.eenews.net/articles/texas-double-disaster-beryls-deluge-and-receding-flood-insurance/>

requirements, costs, and benefits, and provide further subsidies and technical assistance to make flood insurance functionally accessible for low-income families.

Specifically, **FEMA should send annual notices to any properties covered by obtain/maintain requirements for flood insurance.** The flood insurance purchase requirement at 206.110(k)(3) is attached to the address of the property “as long as there is a residential building at the address” but subsequent owners may not know that they requirement applies to their property and even original owners may have forgotten or not completely understood this requirement. Failing to notify owners of homes subject to obtain/maintain requirements subverts the purpose of these requirements; to incentivize homeowners to obtain and maintain insurance to reduce future reliance on federal disaster assistance. Notifying homeowners subject to the obtain/maintain requirements is both permissible under 44 C.F.R. § 206.110(j)(1)(ii) and furthers the purpose of the statute.¹⁰

Home Repair for Accessibility-Related Items

As discussed above, we strongly support the changes to § 206.113 and § 206.117 that allow FEMA to provide home repair assistance for accessibility-related items both for applicants whose disability existed before the disaster and for applicants whose disability was caused by the disaster even if the accessibility-related item was not present before the disaster. The repair, installation, or construction of accessibility-related items is necessary to restore a disaster-damaged home to a “safe and sanitary living or functioning condition” for a person with a disability. We reiterate our concerns that the provisions of the IAPPG referenced in the Rule limit the real and personal property accessibility-related items to a short and specific list of components that may not meet the needs of survivors with disabilities and do not provide any process through which survivors can ask for accessibility-related items that are not specifically covered by the two lists in the IAPPG. The process for requesting an accessibility item that is not on one of the current lists needs to be included in the regulation, clearly laid out in the IAPPG, and FEMA staff and contractors must be specifically trained on this process and accessibility issues. We strongly recommend that FEMA reach out directly to organizations representing persons with disabilities and make these changes with their specific guidance.

Assistance for Self-Employed Disaster Survivors

We support the removal of “self-employment” from § 206.113(b)(9) to allow self-employed, freelance, and gig workers to receive Other Needs Assistance (ONA) to repair or replace disaster-damaged tools or equipment that are essential to their livelihood. Disasters cause immense financial hardship, particularly for lower-wage workers,¹¹ and this rule change will

¹⁰ Notification does not address the problem that flood insurance is simply unaffordable for many families.

¹¹ See, e.g. Thomas Frank, “Hurricanes Caused Lost Income among at least Half of Local Residents”, SCIENTIFIC AMERICAN, May 18, 2024. <https://www.scientificamerican.com/article/hurricanes-caused-lost-income-among-at-least-half-of-local-residents/>

place self-employed workers on the same footing as workers whose employers require them to provide their own tools and equipment.

F. Section 206.114 Criteria for Continued or Additional Assistance

While we appreciate that the Rule is intended to make qualifying for and recertifying eligibility for Continued Temporary Housing Assistance (CTHA) more streamlined and consistent with changes to the housing market after a disaster that make finding new housing - temporary or permanent - extremely challenging, it does not address the problem that the burden of knowing about and asking for ongoing housing assistance is placed entirely on the disaster survivor.

Following Hurricane Ida 19,500 displaced disaster survivors from New Jersey and New York were eligible for two months of rental assistance but fewer than 300 survivors received continuing rental assistance after those initial two months, forcing survivors to struggle to pay both rent and a mortgage, to move back into unsafe homes, or to lose homes to foreclosure.¹² According to survivors, they were never told that continued housing assistance was available.

The burden of knowing that a program exists and when and how to apply for it should not rest on the program's intended beneficiaries, and this is particularly true of FEMA's Individual Assistance programs, which are intended to help individuals and families in crisis. Families should be informed of all the assistance available to them and provided with the documents they need to apply for the help they need to recover.

FEMA states in the IFR that it has the following process; "For an applicant that is a homeowner and if the applicant's FEMA verified real property loss exceeds the amount of initial rental assistance awarded, FEMA will automatically mail the Application for Continued Temporary Housing Assistance after the initial rental assistance award. If the recorded FEMA-verified real property loss does not exceed the amount of initial rental assistance awarded, the applicant must call FEMA's Helpline to request an Application for Continued Temporary Housing Assistance. For an applicant that is a renter, the applicant must call FEMA's helpline to request an Application for Continued Temporary Housing Assistance." The agency offers no justification for why it treats different groups of survivors differently, and as it already automatically mails one group of rental assistance recipients the Application for Continued Temporary Housing Assistance, it can simply mail the application to all disaster survivors receiving rental assistance.

Similarly, FEMA states that "[a]pplicants who receive Displacement Assistance can still request and receive Initial Rental Assistance when they are ready to move into temporary housing." While many Displacement Assistance recipients may not need ongoing housing assistance, the burden should not be on displaced survivors to know about and apply for Rental Assistance. A system that requires applicants themselves to request and receive Initial Rental Assistance lends itself to similar issues seen with the Continued Rental Assistance – applicants may not know such a program exist, not know how to apply, or be unable to do so - particularly given that Displacement Assistance is even more short term than initial Rental Assistance and intended to

¹² [Struggling Ida victims were entitled to 18 months of rental aid. Fewer than 300 in NY and NJ got it.](#)

help survivors in the immediate aftermath of a disaster. **FEMA should automatically evaluate displaced IA applicants for Rental Assistance, just as it does for late applicants. At minimum, FEMA should include information about the Rental Assistance program and how to apply in eligibility determination letters it sends to Displacement Assistance recipients.**

Safe and stable housing is a critical component of recovery and resilience; ensuring survivors don't lose housing because they don't know about available FEMA assistance is essential.

We encourage FEMA to further streamline the process for Continued Temporary Housing Assistance and specifically define acceptable documentation of progress on a Permanent Housing Plan. Housing, particularly affordable multifamily rental housing, is not rebuilt immediately after a disaster. Building affordable rental housing using HUD's Community Development Block Grant Disaster Recovery (CDBG-DR) program takes an average of 4.6 years after the grant award, for example and can be less affordable than pre-disaster housing.¹³ Disasters increase rents, and subsequent disasters in the same area result in further rent increases.¹⁴ Renters, in particular, have no control over whether rental housing is available and affordable. Lack of available housing is an even more difficult issue for survivors with disabilities, and there has historically been extensive housing discrimination based on race post-disaster.¹⁵ The assumptions on which FEMA programs were originally based, that survivors only need brief temporary assistance and can be expected to be fully recovered in 18 months, no longer hold true, particularly in the context of a national housing crisis. Viewing FEMA's mission as pushing survivors out of temporary housing as quickly as possible instead of stabilizing their housing not only stymies recovery but decreases future resilience.

We appreciate that FEMA has committed to engaging with survivors and identifying specific supportive service providers, but reiterate that these policy changes will not change things for disaster survivors unless they are effectively and equitably implemented. We urge FEMA to devote the necessary resources to engage with and support survivors in finding permanent housing.

G. Section 206.115 Appeals

We appreciate FEMA's efforts to simplify its appeals process. However, the best way to improve the appeals process would be to reduce the number of disaster survivors that need to appeal.¹⁶

FEMA too often uses denial letters as requests for more information, which discourages many disaster survivors from pursuing the help they need. If FEMA needs more information to make a

¹³ Martín, C. et al. (2019). Housing recovery and CDBG-DR: a review of the timing and factors associated with housing activities in HUD's Community Development Block Grant for Disaster Recovery Program. U.S. Department of Housing and Urban Development, Office of Policy Development and Research.

¹⁴ [DISASTERS AND THE RENTAL HOUSING COMMUNITY](#):

¹⁵ *GNOFHAC study post-Katrina and St. Bernard Parish*

¹⁶ Applicants for FEMA assistance following DR-4781-TX were still receiving denial letters referring them to the pre-IFR appeal process.

determination, the process should be that FEMA follows up with the applicant to request that information, rather than rejecting the application and telling the applicant to appeal. **Survivors should be able to support their FEMA application with supplemental documents in a timely manner, without having to initiate the formal appeal process.** While the Rule's changes to 206.115(b) allows the applicant to submit "verifiable documentation" instead of requiring a written statement explaining the reasons for the appeal, applicants still have to receive a denial letter and initiate the appeals process; applicants have no meaningful opportunity to learn the details regarding any problems with their applications prior to final denials. Informing applicants of missing documentation and allowing them to submit that documentation would reduce the amount of time it takes to process an application - the appeals process generally takes 90 days, at best - and reduce the administrative burden on FEMA of processing formal appeals.

The current denial letters themselves leave applicants confused and demoralized; the rejection letter language should be revised to provide more clarity about the reasons for rejection and the appeals process, including all relevant deadlines. Denial letters should include not only the reason for the denial but how the applicant can document that FEMA's decision is erroneous. FEMA must also ensure that when it notifies applicants of a decision in the DisasterAssistance.gov system that it refers applicants to the "correspondence" tab where they can find the decision letter with more complete information about the reason for the decision, necessary documentation, and the appeal process.

FEMA must further amend Section 206.115 on Appeals in order to make the appeals process work for disaster victims. The appeals period should be extended from 60 to 90 days following the date of the decision letter. Finally, applicants should be able to appeal their application decision even with limited access to technology. In practice, that means that FEMA cannot require applicants to submit documents as PDFs, for example.

H. Section 206.117 Housing Assistance

Applicants that receive displacement assistance under § 206.119(b)(2) should not have to request rental assistance if their disaster-caused temporary housing needs continue once displacement assistance is exhausted as stated in 206.117(b)(1)(i)(E). FEMA should automatically evaluate displaced IA applicants for Rental Assistance. At minimum, FEMA should include information about the Rental Assistance program and how to apply in eligibility determination letters it sends to Displacement Assistance recipients.

J. Section 206.119 Financial Assistance to Address Other Needs

Removing SBA Application Requirements to Access ONA

We strongly support FEMA's decision to remove this requirement and agree with the agency's reasoning. The SBA loan application requirement has been a major source of confusion and imposed a significant administrative burden on disaster survivors, particularly those from

underserved communities, and delayed the receipt of assistance for eligible survivors. As the GAO noted in 2020, this requirement served as a serious barrier because applicants frequently did not complete the application because they did not understand that it was required to determine IHP eligibility.¹⁷

Low-income households who would not qualify for an SBA loan were supposed to be referred directly to FEMA's IA program¹⁸ and not to SBA for a loan application but this often did not happen in practice. Applicants who reported no income or very-low incomes were referred to the SBA following Hurricane Ida in Louisiana, for example.¹⁹ Survivors who are too low-income to qualify for an SBA loan are also the survivors who most urgently need ONA to meet emergency and basic needs.

While we share the agency's concerns about increasing the cost of disaster assistance from the Disaster Relief Fund, the major driver of rising costs is the frequency and severity of major disasters; for the second year in a row the DRF is projected to run out of money before the most active part of hurricane season.

Serious Needs Assistance

We support the creation of Serious Needs Assistance (SNA) as a source of immediate critical assistance for disaster survivors when they need it most. SNA is more equitable than Critical Needs Assistance because it ensures that all disaster survivors in areas with an Individual Assistance declaration, regardless of which state they live in, have access to rapid, flexible assistance to meet needs like food, water, medication, diapers, and fuel in the aftermath of a disaster.

In order to effectively provide SNA, FEMA must ensure that the program is implemented correctly, that staff and contractors are trained, and that disaster survivors are aware of SNA. We would like to raise the following issues, based on the implementation of SNA in Texas.

- Applicant households have expressed confusion about whether they are eligible for both SNA and financial assistance from the Red Cross and some households have not applied for SNA because they received Red Cross assistance. This is a particular concern for disaster survivors with the lowest incomes and from the most marginalized

¹⁷ GAO-20-503, *Disaster Assistance: Additional Actions Needed to Strengthen FEMA's Individuals and Households Program* (September 30, 2020).

¹⁸ "In Presidential declarations, inquirers with a household income below the minimum income levels stated in the Income Test Tables (provided by SBA) are classified as Failed Income Test (FIT). They are referred by the FEMA registrar directly to Individuals and Households Program (IHP), bypassing the SBA process. For statistical purposes, FITs are not counted as SBA interviews." SBA, Office of Disaster Assistance, SOP 50 30 9, at <https://www.sba.gov/sites/default/files/2018-06/SOP%2050%2030%209-FINAL.PDF>.

¹⁹ Letter from Davida Finger, Clinic Professor, Loyola New Orleans Law Clinic and Laura Tuggle, Executive Director, Southeast Louisiana Legal Services, to FEMA Region 6, October 7, 2021.

groups who have the most urgent needs in the immediate aftermath of a disaster. FEMA needs to better inform both survivors and its non-profit partners.

- Survivors from Texas were erroneously informed by FEMA staff at DRCs that replacing food lost due to a power outage was not an acceptable use of Serious Needs Assistance. In both the IFR section establishing Serious Needs Assistance and program guidance on rule changes, FEMA states that program funds can be used for “essential items like food, water, baby formula, medication and other emergency supplies.” In addition, the IFR directly contemplates a situation experienced by many Texas applicants: “For example, if there are widespread power outages in an area that did not cause an applicant to be displaced, but might have caused refrigerated food or medicine to expire, an applicant might need immediate assistance to replace those necessary items.”²⁰ FEMA must ensure that its staff know that SNA can be used to replace disaster-damaged food and that applicants are informed of this fact.

Generally, **Serious Needs Assistance should not require a home inspection to verify an applicant’s eligibility.**

FEMA is requiring a completed home inspection to determine eligibility for Serious Needs Assistance for survivors of DR-4781-TX, despite the fact that an inspection is not mandated by the Rule and that Serious Needs Assistance is not limited to applicants that have been displaced or otherwise need shelter after a disaster.²¹ FEMA should not require a home inspection, which is intended to verify and value damage, for assistance which is not dependent on disaster damage.²²

FEMA created SNA because, “FEMA has determined that the most pressing necessary expenses and serious needs generally occur during the immediate aftermath of disasters.”²³ Given the time-sensitive nature of these needs, the Immediate Needs Assistance program “is intended to provide applicants the financial means to address immediate serious needs prior to FEMA’s evaluation of their eligibility for other disaster assistance programs.”²⁴ Requiring an inspection to take place prior to the provision of Serious Needs Assistance is a step backwards from the Critical Needs Assistance (CNA) Program that Serious Needs Assistance is meant to improve upon. CNA was provided to applicants prior to a FEMA home inspection, allowing individuals to quickly access funding for their immediate post-disaster needs. Serious Needs Assistance should do the same. Given that FEMA inspections are commonly scheduled within two weeks after an application has been submitted - and potentially much longer after a catastrophic disaster in which many homes are affected - this requirement delays the receipt of

²⁰ <https://www.federalregister.gov/d/2024-00677/p-688>

²¹ <https://www.federalregister.gov/d/2024-00677/p-688>

²² “For example, if there are widespread power outages in an area that did not cause an applicant to be displaced, but might have caused refrigerated food or medicine to expire, an applicant might need immediate assistance to replace those necessary items.”

<https://www.federalregister.gov/d/2024-00677/p-688>

²³ <https://www.federalregister.gov/d/2024-00677/p-677>

²⁴ <https://www.federalregister.gov/d/2024-00677/p-505>

funds needed for serious needs in the aftermath of a disaster and negates the intent of the programs themselves.

In addition, FEMA's revision of § 206.119 in the IFR states that Serious Needs Assistance is for "necessary expenses to assist applicants who *report* they are displaced as a result of the disaster, who *report* a need for shelter as a result of the disaster, or who have other emergency disaster expenses." (emphasis added). Based on this language, survivors only need to report their need for emergency assistance; it is unnecessary and counterproductive to require that such a report is directly verified by FEMA inspection before a household can receive assistance.²⁵ FEMA's own [Reference Guide to Serious Needs Assistance](#) states that "FEMA may give survivors in the hardest hit areas Serious Needs Assistance before their inspection."

FEMA's March 22, 2024 *Amendment to FP 104-009-03, Individual Assistance Program and Policy Guide, Version 1.1* implementing the regulatory changes in the Rule requires the Assistant Administrator for Recovery to assess whether FEMA should offer expedited SNA payments "to specific geographic areas (i.e., counties or zip codes) where FEMA determines serious needs are very likely to immediately exist based on the disaster-caused damage" for every declaration. While we support FEMA's ability to provide expedited SNA, it is unclear when "serious needs are very likely to immediately exist based on the disaster-caused damage" if one of the scenarios FEMA uses as an example of when SNA would be necessary - widespread power outages - did not result in the provision of expedited SNA to Texans. FEMA should clarify the kinds of conditions that would qualify an area for expedited SNA and notify the affected areas. As of July 17, 2024, it is not possible to tell from any of FEMA's press releases whether expedited SNA is available to survivors of Hurricane Beryl in Texas or whether survivors will have to wait for home inspections - despite the fact that many have been without power for over a week and are struggling with heat, food, and water. We understand that FEMA cannot provide a comprehensive list of every situation that would require expedited SNA, but the agency must provide transparency about both how these decisions are made and the fact that they have been made.

Even when FEMA has determined that expedited SNA is not necessary, FEMA should make it explicit in policy and the IAPPG that Serious Needs Assistance can be offered when applicants report – with available supporting information²⁶ – that serious needs exist even though a FEMA inspection has not been completed.

Displacement Assistance

We also strongly support the creation of Displacement Assistance. This program provides important flexibility to survivors, particularly low-income survivors who cannot afford to pay for multiple nights or weeks in a hotel and then wait to be reimbursed, who are displaced in the immediate aftermath of a disaster. We agree with FEMA that "Displacement assistance is a

²⁵ <https://www.federalregister.gov/d/2024-00677/p-1399>

²⁶ The burden of providing this supporting information should not be on the survivor if that information is available from other sources, for example, outage maps in the case of a power outage, local evacuation orders, damage assessments, etc.

more equitable and efficient way of providing short-term lodging assistance than LER, which is an administratively burdensome reimbursement action that benefits those who have the means to pay their hotel bills up front, rather than those applicants who do not have such funds available.”

Like Serious Needs Assistance, Displacement Assistance is intended to help survivors meet their “most pressing necessary expenses . . . during the immediate aftermath of disasters.” Requiring completed home inspections before determining eligibility for Displacement Assistance means that it will be weeks, if not longer, before disaster survivors may be eligible for what is intended to be immediate, short-term assistance. FEMA can determine whether an applicant’s primary residence is uninhabitable, inaccessible, or made unavailable by the survivor’s landlord for purposes of Displacement Assistance based on documentation other than an inspection and it should do so.

Repair or Replacement of Computing Devices

FEMA correctly recognizes the increased role of technology in the lives of most Americans and we support this regulatory change that allows households to receive financial assistance for a disaster damaged computing device, regardless of its intended use.

Additional Recommendations to Improve FEMA’s Individual Assistance Program

1. Further Reduce the Administrative Burden of Providing Documentation

Providing documentation in the aftermath of a disaster is often difficult as documents may have been lost or destroyed. Government offices and other institutions that provide replacement documentation may not be functioning or may be overwhelmed with requests. The cost of obtaining replacement documents may be prohibitive for low-income survivors, and the process may be inaccessible for survivors with limited access to technology, limited proficiency with technology, no transportation, language barriers, or certain disabilities. **Wherever possible, FEMA should reduce the administrative burden on disaster survivors of obtaining and providing documentation.**

For example, FEMA personnel in Texas have been asking disaster survivors to provide documentation of power loss to receive SNA following Hurricane Beryl. The type of documentation that FEMA would accept, however, is unclear. It is also unnecessary given that in the immediate aftermath of the Texas incident, power loss was widespread throughout the area approved for IA.²⁷

A widespread power outage is exactly the type of disaster in which FEMA could easily ascertain – from local governments, utilities, or public reporting²⁸ – which areas were the hardest hit and

²⁷ [Hundreds of thousands still without power amid high temperatures after deadly storms in Houston area | CNN](#)

²⁸ <https://www.forbes.com/sites/ariannajohnson/2024/07/09/heres-why-texans-are-using-the-whataburger-app-to-track-power-outages/>

how long the area did not have power to reduce the burden on disaster survivors and implement Serious Needs Assistance most efficiently and effectively. Asking already overburdened disaster survivors to provide this documentation subverts one of the given purposes of the recent IA reforms, to make assistance for immediate post-disaster needs easier to access, particularly for the lowest-income and most marginalized households.

Similarly, after Hurricane Ida in Louisiana, tenants of HUD-subsidized properties in New Orleans experienced denials and unexplained delays despite providing HUD-compliant displacement notices to FEMA.²⁹ This is another situation in which FEMA should have been able to quickly and easily identify these applicants as HUD tenants by cross-referencing the list of Ida-impacted property addresses the agency has received from HUD with their applications and used HUD's damage assessment to determine that these survivors were displaced and their homes were uninhabitable.

FEMA has made a number of changes in the Rule, including to late registration and Continued Temporary Housing Assistance requirements, that reduce the documentation burden on disaster survivors and we encourage the agency to continue looking for ways to reduce the administrative burden on families and individuals, particularly those from underserved communities.

2. Improve FEMA's Data Collection and Sharing

We appreciate 2023-2027 FEMA's Data Strategy³⁰ and the agency's commitment to increasing data sharing. OpenFEMA is already a valuable tool to understand disasters and we would support any requests for funding or additional flexibility to increase FEMA's data capacity and transparency.

We make the following recommendations related to FEMA data:

The FEMA IHP dataset is currently only available for download in its entirety at 21 million rows and 7.8 GB (and counting). As OpenFEMA itself notes, specialized software is required to access FEMA data. OpenFEMA should make data available to download in smaller subsets, including by disaster code, so that it is accessible to the public.

As the Serious Needs and Displacement Assistance programs are implemented, it is important for advocates and policymakers to understand how these programs are working. However, there is currently no way to use OpenFEMA data to determine if an applicant has received SNA or Displacement Assistance. In the IHP dataset, for example, SNA is included as part of Other Needs Assistance in the variable `onaamount`. Including an additional column, such as `snaamount`, would show whether applicants received SNA. Housing assistance is currently

²⁹ Letter from Davida Finger, Clinic Professor, Loyola New Orleans Law Clinic and Laura Tuggle, Executive Director, Southeast Louisiana Legal Services, to FEMA Region 6, October 7, 2021.

³⁰ https://www.fema.gov/sites/default/files/documents/fema_data-strategy-2023-2027.pdf

differentiated into multiple categories - rental, repair, and replacement amounts, so this request is not substantially out of line with what OpenFEMA is already displaying.

In addition to adding data about SNA and Displacement Assistance, we recommend the following changes to the IHP - Valid Registrations dataset:

- Race/ethnicity data - FEMA began collecting race/ethnicity data in 2023, but has not included it as part of the OpenFEMA dataset.
- Denial reasons for Non-housing Applications - The IHP dataset includes denial codes for housing assistance applications but not for ONA applications. The agency should include denial codes for ONA applications.
- Data on LEP and Disability - There are currently no variables within the FEMA Valid Registrants dataset that capture whether an applicant has a disability. OpenFEMA users can see whether an applicant has access and functional needs but this variable fails as a proxy for disability because people without a disability may have access and functional needs and people with disabilities may not, particularly since this category also captures language access needs. FEMA should add variables to indicate whether an applicant has a disability and whether an applicant is LEP.

FEMA should make anonymized aggregated appeals information, which is important for evaluating the transparency and equity of FEMA programs, available.

3. FEMA Should Add Subsistence-Related Structures, Tools, Equipment, and Foods to the List of Items Eligible for ONA to Ensure Equitable IA Access for Tribal Nations and Low-Income Households

In FEMA's Interim Final Rule, the agency suggests that subsistence-related needs could be covered as self-employment "occupational tools" and other equipment required for a "specific trade or profession" but does not provide options for targeted coverage.³¹ FEMA also provides no evidence or discussion supporting its assertion that STTL governments or FEMA would cover subsistence-related needs under this scheme. Recent disasters impacting both subsistence-based communities and communities that supplement food and income shortfalls with occasional subsistence practices, including Typhoon Merbok on the west coast of Alaska, the landslide in Wrangell, Alaska, and, Hurricane Maria in Puerto Rico, have shown that communities' subsistence-based needs may fall through the cracks, leaving community members disproportionately underserved by federal disaster assistance. FEMA can remedy this significant protection gap by explicitly naming subsistence-related needs as eligible for ONA in the regulation and relevant guidance, including the IAPPG. This determination would be consistent with FEMA's discretionary authority under the Stafford Act and President Biden's mandates requiring FEMA to promote equity and environmental justice across its programs.

³¹ Individual Assistance Program Equity, 89 Fed. Reg. 3990, 4110 (Jan. 22, 2024) (codified at 44 C.F.R. pt. 206).

A. Under the Stafford Act, FEMA has the authority to provide ONA for serious needs even if the STTL government does not explicitly request it.

As stated in the Interim Final Rule, FEMA narrowly reads the Stafford Act to require the applicable STTL government to “identify all the ONA-eligible personal property and miscellaneous items it wishes to cover, as well as the maximum number of items each individual or household may receive,” in order for FEMA to then provide assistance to cover those needs.³² However, the best reading of the Stafford Act grants FEMA more flexible authorities. The Act merely requires FEMA to provide ONA “in consultation with” the STTL government.³³ While the STTL government has the complementary power, under Section 5174(f), to request ONA and other assistance from the federal government, that authority does not supersede or otherwise negate FEMA’s independent authority under 5174(e)(2) to provide ONA for “personal property, transportation, and other necessary expenses or serious needs.”

Throughout the Stafford Act, Congress consistently uses the word “consultation” to mean the act of soliciting input. Though the statute does not define “consultation,” the word appears eighteen times; none of these instances require FEMA to restrict or otherwise narrow its activities to the requests of the consultee. For example, under Section 5196b(c)(2), the statute instructs states on what consultation constitutes, telling them to “consult with and seek appropriate comments from” local municipalities. Other uses of “consult” suggest a similar requirement, such as the President having to consult heads of federal agencies administering disaster benefits to avoid duplication. FEMA therefore unnecessarily restricts its own authority by interpreting “consultation” under Sections 5174(e)(2) and (f) to restrict FEMA’s ONA authorities to merely support the requests of the STTL government; under the plain language of the statute, FEMA retains the discretion to clarify which costs are presumptively eligible for ONA.

FEMA’s narrow interpretation of the Stafford Act results in a clumsy bifurcated state/federal response leading to significant delays or denials for disaster survivors with serious unmet subsistence-related needs. Because subsistence-related needs are often unique to a particular community or geography, and not always clearly understood by state governments, in the absence of extensive pre-disaster consultation between the state or tribal government of a subsistence-based community, the state is unlikely to anticipate and request ONA to cover those unmet needs. Furthermore, in the absence of explicit guidance, officials frequently mischaracterize subsistence-related needs. For example, following Typhoon Merbok, FEMA officials denied ONA for fish camps, which are essential for Alaska Native communities’ survival, characterizing those structures as second homes.

³² *Id.* at 4110.

³³ 42 U.S.C. § 5174(e)(2).

Even if the STTL government later decides to provide ONA for subsistence needs,³⁴ officials must invest in significant public awareness campaigns and internal training *post-disaster* to ensure that survivors apply for and receive assistance to cover those needs. In subsistence-based communities, which are often in rural, remote and insular areas, this is a long shot at best. Explicitly adding subsistence-related needs to the list of items presumptively eligible for ONA will help ensure these unmet needs are consistently and efficiently addressed post-disaster.

B. Subsistence-related costs caused by the disaster meet FEMA's definition of "necessary expense" to satisfy unmet "serious needs" and are therefore presumptively eligible for ONA.

FEMA regulations implementing Section 5174 define both "necessary expense" and "serious need." A "necessary expense" is "the cost associated with acquiring an item or items, obtaining a service, or paying for any other activity that meets a serious need." A "serious need" is "an item, or service, that is essential to an applicant's ability to prevent, mitigate, or overcome a disaster-related hardship, injury or adverse condition."³⁵ Subsistence-related needs, by definition, meet these requirements. Subsistence activities include activities fundamental to both tribal and rural or isolated communities' way of life, such as hunting, gathering, foraging, and storage of wild resources necessary for basic sustenance and cultural survival. Subsistence communities also exist in urban areas, where they may depend heavily on fishing, foraging, farming, or trapping for essential household functions. Thus, subsistence-related needs encompass the tools, equipment and structures necessary to engage in those activities, and fall squarely within FEMA's definition of "serious needs".

C. Adding subsistence-related needs to the list of ONA is consistent with President Biden's mandates to promote equity and environmental justice.

Adding subsistence-based needs to the list of ONA-eligible costs is consistent with numerous executive mandates requiring FEMA to ensure equity in its operations for Tribal Nations and low-income households. These mandates include:

- **Executive Order 14112** ("We must ensure that Federal programs, to the maximum extent possible and practicable under Federal law, provide Tribal Nations with the flexibility to improve economic growth, address the specific needs of their communities, and realize their vision for their future.")
- **Executive Order 14096** ("[W]e must recognize, honor, and respect the different cultural practices—including subsistence practices, ways of living, Indigenous Knowledge, and traditions—in communities across America.")

³⁴ Following Typhoon Merbok and significant advocacy by the Alaska Institute for Justice, Harvard EELP and others, FEMA ultimately agreed to cover subsistence *personal property* but not structures under federal ONA, while the state DHSEM agreed to cover subsistence *structures* (e.g., fish camps). This bifurcated, complex assistance structure resulted in significant delays and confusion, with many Alaska Native survivors in particular failing to request and receive ONA for which they were otherwise eligible.

³⁵ 44 C.F.R. § 206.111.

- **Executive Order 14091** (Requiring agencies to create Equity Action Plans that identify “potential barriers that underserved communities may face in accessing and benefitting from the agency’s policies, programs, and activities” and “strategies, including new or revised policies and programs, to address [those] barriers.”)

FEMA has likewise adopted its own mandates in various guidance documents to expand access to federal disaster assistance for Tribal Nations and low-income households, including:

- **2022-2026 FEMA Strategic Plan** (“FEMA must proactively and continuously engage state, local, tribal, and territorial partners, local community leaders, and other community representatives to gain insight into how FEMA programs can better serve them.”)
- **FEMA Equity Action Plan** (“IA must build more equitable outcomes, reduce administrative burdens, increase eligibility for underserved and vulnerable applicants, increase access, and improve external messaging.”)

4. Protections for Survivors of Domestic Violence

FEMA should extend the housing protections of the Violence Against Women Act (VAWA) to all current housing and Individual Assistance Programs, and any created in the future under the Stafford Act, 42 U.S.C. §§ 5121-5207. This includes but is not limited to Transitional Sheltering Assistance, Displacement Assistance, Rental Assistance, the direct lease program, and Temporary Housing Units.³⁶

Disasters increase rates of physical and emotional violence against women, which has a negative effect on the survivor’s ability to recover.³⁷ These effects are even more severe for women who are also members of other underserved communities, based on their race or ethnicity, for example.³⁸ Survivors must often leave their homes to escape danger or heal from trauma, yet do not have the means to secure permanent, affordable and independent housing. Survivors also face barriers in maintaining their housing after ending an abusive relationship or experiencing sexual violence, due to discrimination and being held accountable for the perpetrators actions.

Access to safe and affordable housing can be critical to keeping survivors of domestic and sexual violence, and their children, safe from future violence as well as the negative effects of housing instability and homelessness. FEMA should extend VAWA protections to its current

³⁶ VAWA’s 2022 reauthorization (Consolidated Appropriations Act of 2022 (Pub. L. 117–103, 136 Stat. 49)) not only expanded the number of federal housing programs explicitly subject to VAWA, it also provided federal agencies with the authority to extend VAWA coverage to their programs through regulations, guidance, or other means. Section 601 expands the “covered housing program” definition in Section 41411 of VAWA (34 U.S.C. § 12491(a)(3)) to include a provision stating that “any other Federal housing programs providing affordable housing to low- and moderate-income persons by means of restricted rents or rental assistance, or more generally providing affordable housing opportunities, as identified by the appropriate agency through regulations, notices, or any other means” could be subject to VAWA. 34 U.S.C. § 12491(a)(3)(P).

³⁷ See, e.g., *Intimate Partner Violence and Disasters: A Framework for Empowering Women Experiencing Violence in Disaster Settings*, *Journal of Women and Social Work*, Vol. 32(3) 390-403 (2017).

³⁸ *Intimate Partner Violence and Disasters: A Framework for Empowering Women Experiencing Violence in Disaster Settings*, *Journal of Women and Social Work*, Vol. 32(3) 390-403 (2017).

housing programs, and, in addition, work with HUD to further implement VAWA as needed to allow survivors to transfer from FEMA's housing programs to other safe, secure, and affordable housing.

5. Assistance for People Experiencing Homelessness

FEMA must clarify which elements forms of assistance are available to people experiencing homelessness (residing in non-traditional structures, shelters, or on the street) and create easier pathways for people experiencing homelessness to receive assistance. For instance, residents of non-traditional structures, such as tents, may be eligible for initial Rental Assistance, Lodging Expense Reimbursement and Other Needs Assistance but it is unclear whether they would be eligible for Displacement Assistance or Critical Needs Assistance.³⁹ FEMA should affirm that people experiencing homelessness are eligible for these crucial lines of assistance. The current practice of requiring residents of non-traditional structures to provide a letter from a homeless service organization or government official verifying their residence in a non-traditional structure should be removed in favor of self-documentation of a residents' housing situation. As the requirements are currently enforced, they create an undue burden on disaster survivors.

We urge FEMA to reconsider their interpretation of the Stafford Act's interdiction on providing assistance to individuals experiencing pre-disaster homelessness. Disasters are becoming more common, so an individual experiencing homelessness following a disaster may be subject to subsequent disaster. As this individual's housing needs were directly caused by a disaster, these applicants should be considered eligible for assistance.

Furthermore, as an agency that provides assistance to people experiencing homelessness, FEMA should take a proactive approach to coordinate with HUD, the US Interagency Council on Homelessness (USICH), and community based organizations to coordinate housing and access to resources - including Displacement Assistance and Critical Needs Assistance - to people experiencing homelessness following a disaster. Finally, FEMA should be transparent about how many residents residing in non-traditional structures receive assistance through FEMA and present that information to the public via OpenFEMA.

Conclusion

Equitable disaster recovery is inextricable from effective disaster recovery. As FEMA itself has acknowledged, when underserved families and communities that don't have the resources to adequately mitigate, prepare, respond, and recover from a disaster are denied access to federal disaster recovery programs they remain or become more vulnerable and "suffer needlessly and

³⁹

<https://www.federalregister.gov/documents/2024/01/22/2024-00677/individual-assistance-program-equity#p-415>

unjustly.”⁴⁰ The increasing frequency and severity of disasters makes ensuring equitable access to recovery and mitigation more urgent than ever.

As organizations that work with and on behalf of underserved communities and the most marginalized disaster survivors, we appreciate and support the changes FEMA has made to Individual Assistance programs. The Rule has great potential to increase access to disaster recovery assistance for underserved families and communities and we look forward to working with FEMA to ensure that these rules are implemented effectively and equitably.

Sincerely,

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⁴⁰ FEMA National Advisory Council November 2020 Report to the FEMA Administrator at 11-12.

⁴¹ The National Consumer Law Center uses the tools of advocacy, education, and litigation to fight for economic justice for low-income and other vulnerable people who have been abused, deceived, discriminated against, or left behind in our economy.