

May 3, 2018

Heather Martin
Community Disaster Recovery Chief
Florida Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399-4120

Dear Ms. Martin:

On behalf of the Disaster Housing Recovery Coalition (DHRC), I write to thank you for the opportunity to submit comments on Florida's Community Development Block Grant Disaster Recovery (CDBG-DR) Action Plan. While the road to recovery will take many years, there are several critical steps Florida can take to ensure that disaster recovery resources reach impacted households with the lowest incomes, who are often the hardest hit by disasters and have the fewest resources to recover.

The DHRC is led by the National Low Income Housing Coalition and includes more than 700 local, state, and national organizations committed to ensuring the disaster housing recovery and rebuilding efforts are complete and equitable for all impacted individuals and communities.

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

1. Deploying housing recovery funds and implementing cost-effective measures to ensure that all households – including homeowners, renters, and those who were experiencing homelessness before the disaster – receive the affordable and accessible housing assistance they need to get back on their feet.

- a. Provide greater resources to address rental needs and deeper income targeting of programs serving renters, including renters with the lowest incomes. As estimated by the State of Florida, the federal disaster recovery funds available to the state will not meet all the unmet affordable housing needs following the 2017 hurricanes. The action plan should ensure that scarce resources are allocated equitably between homeowners and renters at all income levels proportional to damage assessments and unmet need. According to the state's assessment, housing units for low-income households, most of whom are renters, represent 75% of the units damaged from Hurricane Irma. For that reason, we believe it is critical to allocate at least 75% of the available housing resources to address this need. Moreover, several state disaster recovery resources have already been provided to assist homeowners, and the influx of displaced survivors from Puerto Rico into Florida has placed even more pressure on the availability of affordable rental units. It is important that the State Action Plan recognize the decrease in need for assistance for homeowners and increase in renter households that have taken place in the state and to allocate resources accordingly.

- b. Require a longer affordability period – preferably 50 years or longer – to avoid exacerbating the current shortage of affordable rental homes in the state and to maximize the federal and state investment. According to the National Low Income Housing Coalition’s 2018 The Gap report, even before the recent hurricanes, there were only 26 affordable and available rental homes for every 100 extremely low income families in Florida. Like other states across the nation, the shortage of affordable rental homes primarily impacts these lowest income households. As a result, 79% of them pay at least half of their income on rent, leaving few resources for other basic needs. While the state’s current affordability restriction for the Low Income Housing Tax Credit (LIHTC) – the principle source of financing for affordable housing properties – is 50 years, the Action Plan only requires a 20-year affordability period for rental housing rehabilitated under the Housing Repair Program. There is no reason why the affordability restrictions for affordable rental housing developed with CDBG-DR funds should be less than 50 years.
- c. Allocate funding for direct rental assistance. The Action Plan provides funding for new construction for rental housing, but it does little to address the needs of tenants who were displaced due to hurricane damage and need housing now. Prior to the damage caused by Hurricane Irma, Florida was already experiencing an affordable rental housing shortage in the counties most impacted by the storm. As such, we recommend providing direct rental assistance that can be extended for up to 48 months while renters wait for new affordable rental housing to be constructed. One alternative is to request FEMA and the U.S. Department of Housing and Urban Development (HUD) make the Disaster Housing Assistance Program (DHAP) available to survivors of Hurricane Irma, while encouraging Puerto Rico’s Governor to do the same for those displaced from the island after Hurricane Maria and currently living in Florida. DHAP was created from hard lessons learned during Hurricane Katrina, and it has been used successfully after past disasters. However, to date, FEMA has not taken steps to stand up this program that would directly benefit displaced households still living in FEMA hotels and the thousands more who were unable to access these hotels due to financial barriers. Without longer-term housing solutions, like DHAP, families have had no choice but to double or triple up with other families, sleep at shelters, return to uninhabitable homes, or pay more than half of their income on rent, putting them at increased risk of evictions and, in worst cases, homelessness.
- d. Provide a more detailed explanation of the calculations on pp. 64-66 and how they were generated for both owners and renters. The State should make the full data underlying these calculations publicly available. It is difficult to assess the accuracy of these calculations, and whether they fairly treat both owners and renters, from the information provided. It appears that the State is using a method it devised to account for FEMA undercounting – which, in theory, is laudable - but without explanation of how that method fully works, the critical question of whether unmet needs are being fully and fairly assessed cannot be evaluated by the public.

- e. Assess the rehabilitation needs of federally subsidized affordable housing units, as required by the CDBG-DR Federal Register notice. In the Action Plan, the only attempt at assessing the damage caused to federally subsidized housing units appears to be letters that were sent to Public Housing Agencies (PHAs) and to which no PHAs responded. However, much of federally subsidized housing units, such as Project Based Section 8 properties, are owned and operated by private housing providers. As such, the state should obtain a copy of the Preliminary Disaster Assessment for Florida and the Affected Portfolio List/and Tracking Reports for HUD-funded properties in Florida to make an accurate assessment of the impact on HUD-funded properties. CDBG-DR funding should prioritize federally-assisted housing developments both to ensure continued availability of the long-term affordable housing stock and to protect the federal and state investment.
- f. Require that all damaged or destroyed federally or state subsidized rental housing be replaced on a one-for-one basis. Given the growing shortage of affordable rental housing in the state, the action plan should ensure that this crisis is not made worse by the loss of affordable housing stock due to the hurricanes.
- g. Provide funding to address the preservation of damaged rental units. The Florida Action Plan designates funding for new construction under the LIHTC program, but there does not appear to be any set asides for using the LIHTC program for rehabilitation to preserve existing affordable rental housing stock. Florida currently utilizes 15% of its LIHTC funding for preservation. Therefore, the action plan should set aside at least 15% of the LIHTC funding for preservation to rehabilitate existing affordable housing units. This would greatly increase the effectiveness of the LIHTC program, as preservation requires far less subsidy per unit than new construction.
- h. Eliminate barriers to continued occupancy in LIHTC properties. Many LIHTC properties utilize continued occupancy policies that result in households unnecessarily losing their housing. For example, Section 5.2 E.4 of the Florida Housing Finance Corporation Manual permits rent increases during the term of lease when HUD issues new income limits, if so provided in the lease. Many low and moderate income renters are already rent burdened such that an unexpected increase in their monthly rent during the middle of their lease term can lead to eviction or homelessness.
- i. Comply with Affirmatively Furthering Fair Housing (AFFH) obligation when allocating housing resources. We support the Action Plan's commitment to developing policies and procedures for compliance with AFFH requirements during the implementation of this Action Plan. Investments should be made in a manner that foster affordable housing in high-opportunity neighborhoods and in communities with currently existing affordable housing. All investment should be made in a manner that prevents displacement and provides impacted residents with the choice to stay in their existing communities or relocate to other desired locations.

j. Provide training to ensure compliance with federal civil rights laws.

2. Ensuring that federal and state investments in public infrastructure and environmental remediation are allocated fairly and adequately to meet the needs of low income people and communities in urban, suburban, and rural communities.

- a. Ensure that rebuilding plans address the infrastructure needs of all communities fairly, so that communities with inadequate infrastructure before the disaster emerge from the recovery process with an equitable level of infrastructure (roads, bridges, drainage, etc.) that will enable them to better weather future storms.

3. Adopting transparent data and reporting standards to ensure that federal and state resources are allocated fairly and adequately to meet the needs of low income people and communities.

- a. Being accountable for the equitable disbursement of federal resources starts with meaningful opportunities for public input on the Action Plan. Considering the multiple and varied areas of the state affected by Hurricane Irma, on-site, public hearings would provide a more equitable opportunity for impacted residents to weigh in. This would require an extension of the 14-day public comment period to at least May 8, 2018.
- b. Ensure that all communications are made accessible to individuals with limited English proficiency (including those who speak Spanish, Vietnamese, or Creole) or who are blind, deaf, or hard of hearing. Communications should be accessible, both programmatically and physically, to lower-income and special needs populations and historically underserved communities, including being provided in everyday language. Florida should develop a detailed Language Action Plan (LAP), which would address outreach techniques to inform Limited English Proficient (LEP) people of their right to access this important program. HUD 1 guidelines specify that “HUD would expect translations of vital documents to be provided when the eligible LEP population in the market area or the current beneficiaries exceeds 1,000 persons or if it exceeds five percent of the eligible population or beneficiaries along with more than 50 persons.” Across the 12 counties hit hardest by Hurricane Irma, there are many LEP communities that meet the 1,000-person threshold.
- c. Collect and make public comprehensive demographic data at the most granular level possible on the impact of the disaster and how resources are allocated. Data should be collected and presented on the most granular level possible on all protected classes covered by the *Stafford Act*, *the Americans with Disabilities Act*, *Fair Housing Act*, *Title VI of the Civil Rights Act*, and other federal and state civil rights protections, including, but not limited to race/ethnicity, income and economic status, age, disability, and gender. Data should also be collected and presented on the most granular level possible on the location and tenure type of both housing need and assistance ultimately provided, education levels, vulnerability for gentrification and future displacement, and

transportation dependence. Collecting and making such data available at the most granular level possible is essential for the public to undertake meaningful analysis.

4. Ensuring that the lowest income households can fully benefit from federal disaster housing resources and have meaningful choices over where to live and opportunities for work – free from discrimination by furthering fair housing choice and combatting housing segregation;

- a. The program budget contained in the Action Plan focuses on assisting renter households through the Workforce Affordable Rental New Construction Program. However, the Action Plan does not define what constitutes workforce housing or that such housing will be affordable to low income households. Florida’s wages, especially for low-income workers, have not kept up with the price of housing. In addition, several impacted populations may not be able to work, including seniors and people with disabilities. According to the state’s assessment, units housing low-income households, many of whom are renters, represent 75% of the units damaged from Hurricane Irma. It is critical to ensure that federal disaster recovery resources reach people with the lowest incomes, who are hardest-hit by the hurricanes and who have the least resources to recover.
- b. Prohibit recipients of federal and state disaster recovery funds from refusing to rent to tenants based on their source of income. Florida’s fair housing statute does not currently prohibit discrimination based on source of income, thereby allowing housing providers to refuse to rent to people who receive assistance with paying their rent. The state action plan should require all property owners receiving federal or state disaster assistance, including CDBG-DR funds, to prioritize tenants receiving housing assistance for available units and bar discrimination based on source of income. Such a requirement ensures that low income families have access to affordable housing in more areas and are not forced to live in housing in high poverty and/or low opportunity areas.
- c. Provide low income residents with the ability to return to their communities. The Action Plan provides funding for land acquisition for affordable workforce housing, as well as home buyout programs. However, there is no discussion as to what will happen to a tenant or homeowner displaced by such programs. The Action Plan should provide a right of first refusal to tenants displaced by land acquisition programs, as well as one for one replacement of rental units lost by such activities.
- d. Reduce barriers for low income households to federally assisted LIHTC properties. Despite the federal investments that make LIHTC properties possible, these developments often have admission policies which prevent low income households from accessing the housing and are designed to screen people out instead of screening people in to housing. These include policies such as charging application fees as high as \$85 for each adult applying; requiring applicants to pay a security deposit, first and last month’s rent, and miscellaneous fees up front; minimum income requirements for tenants with rental assistance; and unreasonable criminal and credit background checks. These policies deter many households from applying. For those that do apply, they are often

rejected unfairly because of these policies. Reducing the entry barriers to LIHTC properties is necessary to ensure that low income households can access this housing.

- e. Ensure that individuals experiencing homelessness prior to the disaster have access to the same disaster relief assistance as those who were renting their homes prior to the disaster.
- f. Provide employment opportunities to low income residents of impacted communities, as well as contracting opportunities to small businesses located in low income communities impacted by the disasters by making the suggested levels of employment and contracting found in Section 3 of the Housing and Urban Development Act of 1968, 12 USC 1701u, mandatory for any entity receiving CDBG-DR funding directly or indirectly. This will help stimulate the local economy and avoid many of the problems associated with the Katrina response, where large corporations dominated reconstruction and dollars were wasted in a cascading stream of subcontracting.

5. Safeguarding federal investments by protecting against future disasters and promoting better coordination among federal agencies.

- a. Require that the reconstruction of any home built with federal or state resources located in 100-year flood hazard area includes cost-effective mitigation strategies, including the elevation of residential structures and parking areas above the 100-year floodplain or higher, flood-proofing lower levels of residential structures, and other methods.
- b. Use disaster relief funds, such as CDBG-DR, for storm mitigation strategies. For example, these resources could be used for roof hardening, the purchase of shutters, or the installation of hurricane-resistant windows and doors and resilient power systems, including solar + storage microgrid technology that can provide backup power during extended outages.

Thank you for your consideration of these proposed changes.

Sincerely,

A handwritten signature in cursive script that reads "Diane Yustel".

President and CEO
National Low Income Housing Coalition