

WRITTEN STATEMENT OF
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HEARING ON
**“EMERGENCY CDBG FUNDS IN THE GULF STATES: USES,
CHALLENGES, AND LESSONS FOR THE FUTURE”**
BEFORE THE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
U.S. HOUSE OF REPRESENTATIVES

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On behalf of Deputy Secretary Roy Bernardi, thank you Chairwoman Waters for the invitation to appear before the Subcommittee today. I am Stanley Gimont, Acting Director of the Office of Block Grant Assistance of the Department of Housing and Urban Development. I appreciate the opportunity to discuss disaster recovery through the Community Development Block Grant (CDBG) program.

Overview

Three supplemental appropriations providing CDBG funds for Gulf Coast disaster recovery purposes have been enacted since the time immediately following Hurricane Katrina's landfall on August 29, 2005. The first CDBG supplemental provided \$11.5 billion in CDBG disaster recovery funding on December 30, 2005. Within one month, the Department allocated these funds based on areas of highest need and with greatest concentration of destruction. In June 2006, the second CDBG supplemental provided an additional \$5.2 billion and the Department promptly allocated these funds to the affected states. The third supplemental was signed in November 2007, providing an additional \$3 billion specifically to close the funding gap for the State of Louisiana's "Road Home" homeowner assistance program.

To date, a total of \$19.673 billion in CDBG funding has been appropriated for the five Gulf States impacted by Hurricanes Katrina, Rita, and Wilma. Of this amount, states have proposed to fund housing programs totaling over \$13.8 billion, or 70 percent of the amounts appropriated. In slightly more than two years since the first supplemental appropriation, the states have expended over \$9.2 billion for CDBG recovery activities; over \$8.2 billion has been disbursed for housing assistance activities. Thus, approximately 90 percent of all funds expended to date have been for housing activities.

The first two CDBG supplemental appropriations were clear in their intent and extraordinary in the flexibility they conferred on the states. Traditionally, such supplemental funding requires substantial oversight by the Department on program issues but Congress clearly indicated that HUD should not dictate uses of funds or the amounts to be set aside for each activity unless otherwise specified by Congress. The first CDBG supplemental stated that HUD must waive all regulations or statutes which could hinder implementation of the states' plans. Only four areas were exempt from this mandate: fair housing, environmental review, civil rights and labor standards. The second supplemental bill modified the direction on waivers to state that HUD may approve waivers.

As Congress intended, the eligible states have thus had substantial flexibility in designing programs within the overall purposes of the legislation, establishing funding levels, and carrying out the activities to achieve their goals. This approach has allowed each of the five states to tailor its recovery programs to best address the needs of its citizens. HUD's primary role has been to provide technical assistance on the federal program requirements and to monitor the use of funds.

HUD has implemented the grants with waivers and alternative requirements that emphasize and balance flexibility, accountability and performance. A State may establish innovative activities, but must still follow Federal financial management requirements. Quarterly performance reports

are submitted not only to HUD program staff that use them to track progress; the States must send the reports to Congress and post them on the Internet. The largest activities in CDBG history – the Louisiana and Mississippi homeowners compensation and incentive programs – have had, collectively, more than 45 compliance or financial review from HUD and its Office of Inspector General, state auditors, internal auditors, independent auditors and multiple anti-fraud investigators. So far, the news is encouraging as documented non-compliance appears to total less than one percent of all funds expended to date.

The mutual goal of HUD and the states has been to assist the victims of the storms and to act efficiently to get funding into the hands of those who deserve it as quickly as possible. A continuous improvement process regularly evaluates obstacles and seeks both short and long term solutions. The states have the authority and ability to revise funding levels in response to changes in need and opportunity. While not everyone agrees with every program choice, HUD has found overall compliance with program and financial rules to be very good. In addition, fraud and abuse has been minimized thanks to the collective diligence of Federal, State, and local officials.

The following discussion addresses points of interest identified by the Subcommittee.

Fund Distribution

The distribution and oversight of funds has not proven to be a problem for HUD or for the affected states. The CDBG Program provided an existing conduit through which to channel disaster recovery funding. The Department has longstanding relationships with all five affected states through the State Community Development Block Grant program, which makes funding available to non-metropolitan communities. Thus, each state had in place a sound mechanism to receive and begin to administer CDBG disaster recovery funds.

Some states opted to distribute funds directly to non-profit and other community organizations, as well as to engage for-profit contractors. This approach was in contrast to the basic State CDBG program which typically passes funds through directly to units of general local government. However, these changes were primarily technical; the states were funding a different type of subrecipient and the flow of funds was only slightly affected. Monitoring and auditing have followed long established procedures of the regular CDBG program.

Benefit to Low- and Moderate-Income Persons

On February 13, 2006, HUD granted waivers to all five states to allow them to demonstrate a 50% overall benefit to low- and moderate-income people, rather than the 70% standard in the regular CDBG program. The primary justification for this waiver is that the disasters caused widespread physical damage to infrastructure and housing affecting those of varying incomes. This waiver is similar to overall benefit waivers that HUD has granted for several previous disaster recovery efforts, such as those related to the city of Grand Forks, North Dakota and the State of Maine. The states believed that assistance to some income blind housing and infrastructure programs was critical to their overall recovery. It is HUD's observation that all the states are meeting the revised standard but not exceeding it substantially.

On June 14, 2006, the Department expanded the low- and moderate-income benefit waiver for the state of Mississippi, as follows:

“Overall benefit. 42 U.S.C. 5301(c) and 5304(b)(3), and 24 CFR 570.484 and 24 CFR 91.325(b)(4)(ii) with respect to the overall benefit requirement are waived for the CDBG disaster recovery grant covered by this notice to the extent necessary to permit Mississippi to carry out the activities contained in its March 31, 2006, action plan submission, provided that the state must give reasonable priority for the balance of its funds to activities which will primarily benefit persons of low and moderate income. HUD expects the grantee to maintain low- and moderate income benefit documentation for each activity providing such benefit.”

This waiver allowed Phase I of the homeowner compensation program to go forward. Note that because of the nature of the calculation method, inevitably, the overall percentage of lower income people is reduced below 50% as the size of the service area increases. In contrast, under the regular CDBG program, communities can target more narrowly to low- and moderate-income neighborhoods.

State Housing Plans and Programs

Programs for Homeowners

Each state was given flexibility to adopt its own recovery plans. The states of Alabama and Florida are implementing more traditional CDBG housing programs by a method of distribution to local governments for housing activities with jurisdictions in Alabama and Florida undertaking different combinations of housing rehabilitation, relocation, and reconstruction. The state of Texas is undertaking rehabilitation through its councils of governments with funds from the first supplemental. Texas' primary homeowner assistance program is a regional housing rehabilitation program through which it intends to assist several thousand homeowners. While the program was contemplated by the state prior to the second supplemental appropriation, it was not implemented as there were not sufficient funds for a program of that scale.

The particular environmental processes mandated in the laws and the regulations have proved difficult to fit into the pressing schedules of many of the Gulf Coast recovery housing programs. Note that the environmental requirement was one of the four statutory areas that the supplemental appropriations did not allow the Secretary to waive. The shorter duration of the environmental review required was one factor influencing the choice of the homeowner compensation program model over the housing rehabilitation model in Mississippi and Louisiana. A housing rehabilitation program requires an environmental review of each individual site. The homeowner compensation model requires a program level review.

Other factors influencing program design choices were the additional operational requirements a housing rehabilitation program would require, such as work write-ups and specifications, progress payments and inspections. HUD is beginning a study to ascertain and compare the results of these different approaches.

The states of Louisiana and Mississippi elected to implement a homeowner compensation program as the primary model. The compensation model provides eligible homeowners with a grant for uncompensated property losses to their primary residence. In consideration for assistance, homeowners agree to covenants on their property (or entering into a contract) that would require any new or rehabilitated structure to meet new building code requirements and FEMA elevation requirements if applicable. The goal of the compensation model was to ensure that any rebuilt properties would be safe from future hurricanes. Mississippi has assisted over 20,000 homeowners and the Louisiana Road Home program has assisted approximately 105,000 homeowners. These programs represent the largest CDBG-funded activities in the 34-year history of the CDBG program.

Both Mississippi and Louisiana chose to hire contractors and compensate owners directly rather than perform the work through public or non-profit subrecipient agencies. The compensation approach enabled them to get money to disaster victims sooner, but once the State has made the payment to the homeowner, the funds lose their Federal nature and the State loses control over how the funds are used. To assure the homeowners take actions to further disaster recovery, the States developed a program that held the beneficiaries to the terms of the covenant or contract. The States developed policies that allow for some compassionate charge-offs of repayments for those unable to live up to their agreements, but these were for exceptions.

Texas, however, chose to assist homeowners through a more standard rehabilitation and reconstruction approach, in which the State helps manage each project and sets limits on how funds may be used. This approach, and most other recovery projects, is still subject to a site-by-site environmental review which can add time to the development process, but the trade-off is greater assurance that intended activities are completed. HUD is constantly working with the States to find ways to meet these requirements in a manner that prevents work stoppage and keeps projects moving quickly through development.

Mississippi Programs for Homeowners

With regard to the State of Mississippi's CDBG supplemental disaster grant programs generally, and its housing programs specifically, the State made its first action plan submission on March 31, 2006. HUD awarded the full grant of \$5 billion from the first supplemental and Mississippi proposed a \$3.24 billion Homeowner Grant Assistance program to provide up to \$150,000 in compensation grants for uncompensated damages to the homeowner's primary residence.

To date, Mississippi has awarded more than 20,000 homeowner grants for a total of \$1.4 billion, for an average compensation grant of \$71,000. Approximately 2,000 grants remain to be made under Phase I of the program. The estimated total cost is approximately \$1.28 billion in compensation grants. It is apparent that the state had expected a greater number of homeowner applicants and a greater average compensation grant.

On December 12, 2006, Mississippi submitted a modification to its Homeowner Assistance Grant program to expand the program to assist homeowners who lived inside the pre-Katrina designated floodplain. That plan provided for the following:

“The Phase II Homeowner Grant Assistance program is to provide compensation, up to a maximum of \$100,000, to homeowners who suffered damage to their primary residence as of August 29, 2005 from Hurricane Katrina. In addition, an elevation grant of up to \$30,000 may be offered to eligible applicants who meet program requirements. A qualifying homeowner must have a household income at or below 120% of the Area Median Income (AMI), agree to a covenant on their property that establishes building code, homeowner insurance, and elevation requirements for them or any future owner of the land. ...

“MDA is redirecting \$700 million of the \$3 billion initially allocated for Homeowner Assistance Grants to the Phase II Homeowner Grant Assistance Program.”

The state received approximately 8,000 applications for its Phase II homeowner grant assistance program. The state has made approximately 3,900 compensation grant awards for approximately \$251 million or an average compensation grant of approximately \$71,000. There are approximately 1,200 approved grant applications remaining to be closed.

Mississippi expects to assist approximately 22,000 households through the components of its Homeowner Grant program. The smaller than expected number of eligible units and lower than expected cost per unit is projected to result in a surplus of at least \$800 million in CDBG Disaster Recovery funds in the Homeowner Grant Program. This excess housing funding is being reallocated by the state to expand Long-term Workforce Housing by \$200 million and to support \$600 million in costs for development of the Port of Gulfport. No rental housing funds were reallocated to the Port project.

Programs for Renters

The first CDBG supplemental disaster grant did not specify that any percentage of any amounts be programmed for any particular program activity category. With regard to CDBG disaster grant funds programmed for affordable rental housing, the second supplemental provided:

“not less than \$1,000,000,000 from funds made available on a pro-rata basis according to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas.”

For each individual state allocation, the amount resulting from this provision was not less than 19.33 percent of each state grant. In a Federal Register notice published October 30, 2006, the Department provided the CDBG disaster grant allocations for each of the five states and the minimum amount of funds required to be used for affordable rental housing stock activities.

**Required and Actual CDBG Amounts Programmed For
Affordable Rental Housing
As Provided for by PL 109-234**

STATE	109-234 Required	Actual Amount	Actual Percentage
Alabama	\$4,103,146	\$4,103,146	19.33%
Florida	\$19,344,001	\$20,013,304	20.00%
Louisiana	\$811,907,984	\$1,071,208,250	25.50%
Mississippi	\$81,777,703	\$258,500,000	61.11%
Texas	\$82,867,166	\$122,866,984	28.66%
Total	\$1,000,000,000	\$1,476,691,684	28.55%

As shown by the table above, over \$1.4 billion has been programmed for affordable rental housing programs and four of the five states elected to program more than the minimum required by law for rental housing activities.

Funding Levels for Affordable Rental Housing in All 5 Gulf States

State	First Supplemental	1 st Supp-funded Rental Housing	Second Supplemental	2 nd Supp-funded Rental Housing	Total Grants	Total Rental Housing	Rental as % of Total Grant
AL	\$74,388,000	\$0	\$21,225,574	\$4,103,146	\$95,613,574	\$4,103,146	4.3%
FL	\$82,904,000	\$0	\$100,066,518	\$19,344,001	\$182,970,518	\$19,344,001	10.6%
LA	\$6,210,000,000	\$376,300,000	\$4,200,000,000	\$1,071,208,250	\$10,410,000,000	\$1,447,508,250	13.9%
MS	\$5,085,185,000	\$254,000,000	\$423,671,849	\$258,500,000	\$5,481,221,059	\$512,500,000	9.4%
TX	\$74,523,000	\$0	\$428,671,849	\$122,866,984	\$503,194,849	\$122,866,984	24.4%
ALL	\$11,527,000,000	\$630,300,000	\$5,173,635,790	\$1,476,022,381	\$16,673,000,000	\$2,106,322,381	12.5% AVG

When taking into account spending dedicated for affordable rental housing from the first and second appropriations, the five states allocated an average of 12.5% of their grants for rental housing. A third supplemental appropriation was signed in November 2007, providing an additional \$3 billion specifically for the State of Louisiana's "Road Home" homeowner assistance program and will not affect this total as rental housing is not eligible under this grant.

Mississippi Programs for Renters

On August 8, 2006, Mississippi submitted its partial Action Plan for public housing reconstruction. That partial Action Plan proposed \$105 million to repair or rebuild 110 percent of the total public housing units affected by Hurricane Katrina. The state determined that the hurricane impacted 2,534 units of public housing. The state expects to renovate and will assist

2,796 total public housing units. HUD notified the state on August 31, 2006, of the acceptance of the partial Action Plan.

On June 12, 2007, the State of Mississippi submitted its partial action plan for its Small Rental Housing Program. The plan proposed \$262.5 million in CDBG disaster recovery funds to repair and replace lost or damaged rental units in one to four unit structures. The program would provide loans of up to \$30,000 per unit to owners of small rental properties located in Hancock, Harrison, Jackson and Pearl River Counties. HUD accepted the state's small rental housing plan on July 2, 2007.

On February 20, 2008, Mississippi announced its Long-Term Workforce Housing program that will be funded with \$150 million in CDBG disaster recovery funds, and may include some rental housing. The state is preparing its draft CDBG partial action plan submission for public comment after which it will submit its partial action plan to HUD. As noted earlier, the state expects to request reallocation of another \$200 million in CDBG funding from excess Homeowner Program funds to Long Term Workforce Housing. The first round is expected to allocate \$15.8 million for rental housing construction and \$40 million for mixed use projects involving both rental and ownership housing.

Port of Gulfport Restoration Program

As previously mentioned, the State of Mississippi reallocated approximately \$800 million from its Homeowner Compensation program because fewer homes required funding than originally anticipated. Of this amount, \$600 million was directed to the Port of Gulfport for renovation of its infrastructure. Gulfport sustained significant damage in the hurricanes and the port now employs 1,286 people, down from over 2,000 before the storms. According to the State, the "multiplier effect" of these direct jobs, through support services and related functions, means that the port generates 700 added jobs, for a current total of about 2,000 jobs. This figure is 38% below pre-disaster levels. Damage to the port has already made certain shipments impossible due to lack of storage or refrigeration facilities. The state projects that, after restoration and improvement, the port will employ over 2,500 workers directly and another 2,800 indirectly, with these increases attributable to changes to the capacity of the port. These jobs will help provide long-term economic stability to the region.

In the partial action plan for the Port of Gulfport submitted on December 12, 2007, the state identified in its final submission to HUD that there had been petitions with 1,377 signatures and 195 individual responses submitted that were opposed to funding the port with funds currently allocated to the Homeowner Assistance Program. However, as described previously, the State of Mississippi believes that it has reached nearly every homeowner requiring assistance and therefore decided to reprogram the additional funds to the Port of Gulfport.

The letter from HUD to Governor Barbour indicated that the Department had "little discretion" to deny the state's action plan amendment. Therefore, the Department did not formally evaluate the Gulfport project relative to housing needs.

The Department is following this project very closely to ensure that it meets its goals of creating jobs, especially for low and moderate income people. In addition, the Department will continue

to monitor these programs closely and will ensure that there is no duplication of benefits provided by either the Federal Emergency Management Agency or the Army Corps of Engineers. To date, there has been no indication that any duplication has occurred. The numerous audit and monitoring reviews that all the states have undergone will continue and HUD is confident that the states will adhere to all applicable laws and regulations.

Affirmatively Furthering Fair Housing

The supplemental appropriations did not allow any waiver of fair housing requirements and HUD takes seriously its responsibility to ensure that all grantees meet this requirement. From the earliest contacts with the States, HUD program staff advised the States to review and update their Analysis of Impediments (AI) to Fair Housing. The Department conducts regular reviews for compliance with applicable civil rights and fair housing laws and requirements and responds aggressively to verified complaints. HUD has not received an unusual number of complaints or found significant violations, although we will continue to review regularly in this area. HUD has provided technical assistance regarding appropriate design for housing that is accessible to persons with disabilities. Both Louisiana and Mississippi, as well as the other hurricane-impacted States, have been reviewed without findings of noncompliance with these requirements and both States are undertaking updates of their Analyses of Impediments.

The Subcommittee questioned how the Port of Gulfport project is affirmatively furthering fair housing. The Department expects the state to affirmatively further fair housing by addressing impediments to housing choice. This requirement does not keep a grantee with an across-the-board housing shortage from choosing to carry out eligible economic development, public services or public works projects if they are also needed for its recovery. The CDBG program establishes the responsibility for establishing funding priorities at the state or local level.

The State of Mississippi has an Analysis of Impediments (AI) to Fair Housing, which was submitted to HUD in July 2004. Many of the identified impediments have been or will be addressed during the annual application and implementation workshops for the HOME and CDBG programs. The State has initiated an update of the AI to include any possible impact to fair housing choice caused by Hurricane Katrina.

Additional information about specific programs, and links to required grantee Internet pages, may be found at HUD's Office of Community Planning and Development website.

Thank you for the opportunity to appear before the Subcommittee today. The Department looks forward to working with Congress and the states in continuing our joint efforts to rebuild along the Gulf Coast.