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The Role of HUD Housing Programs in Response to Disasters

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Summary

Hurricane Katrina has resulted in the displacement of tens of thousands of families from their homes. While its magnitude is unprecedented, the resulting need to shelter and house displaced families is not. The Department of Housing and Urban Development (HUD), the nation's agency with a mission to provide safe and decent housing for all Americans, has played a role in meeting those needs in the past and is playing a role in the wake of Katrina. How best to utilize the department's resources, or how best to allocate future additional resources to meet the massive housing needs resulting from Katrina, has yet to be determined.

This report begins by introducing the concept of a continuum of housing needs following a disaster. Displaced families' needs range from emergency shelter to temporary and permanent housing. While the Federal Emergency Management Agency (FEMA) has primary responsibility for coordinating disaster relief efforts and providing certain services to help communities recover, other federal agencies, including HUD, also play an important role.

HUD's programs fall into three distinct categories. The direct housing assistance programs include the Section 8 Housing Choice Voucher program, the public housing program, and project-based rental assistance (including Section 202 and Section 811 programs for the elderly and disabled). They can be used to provide temporary housing for both families who were receiving housing assistance at the time of the disaster as well as those who were not. The block grant programs, the Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs, provide flexible funding sources to states and localities to meet housing and other community development needs, including those in times of disaster. The Federal Housing Administration (FHA) at HUD provides single-family and multi-family mortgage insurance, the rules of which become more flexible following a disaster.

In order to better understand the role HUD has played in response to disasters, this report profiles crises in which the housing stock was severely damaged. Congress provided emergency supplemental funding to HUD in response to each of the disasters: Hurricane Andrew, Midwest Flooding, the Northridge Earthquake, and the 2004 Florida Hurricanes.

HUD programs have been used as a conduit for funneling short-, interim-, and long-term funding to disaster-stricken communities many times in the past, however, Katrina's impact on the region's housing stock eclipses that of any other natural or manmade disaster in the history of this country. While looking to prior uses of HUD resources in times of disaster may be informative, given the scope of Katrina, new and broad initiatives to meet the interim- and long-term needs of the affected region and its residents may be proposed in the 109th Congress.

This report is meant to provide a first look and will be expanded and updated as issues evolve and legislation is considered.

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The Role of HUD Housing Programs in Response to Disasters

Introduction

Hurricane Katrina has resulted in the displacement of tens of thousands of families from their homes. While its magnitude is unprecedented, the resulting need to shelter and house displaced families is not. The Department of Housing and Urban Development (HUD), the nation's agency with a mission to provide safe and decent housing for all Americans, has played a role in meeting those needs in the past and is playing a role in the wake of Katrina. How best to utilize the department's resources, or how best to allocate future additional resources to meet the massive housing needs resulting from Katrina, has yet to be determined. This report is designed to look at HUD's current programs and their ability and authority to respond to housing crises, and the way that Congress has expanded that role and authority in the past. It further looks at HUD's initial response to Katrina and proposals for expansions of the department's role. This report is meant to provide a first look and will be expanded and updated as issues evolve.

Emergency Housing Needs

Before looking at existing housing resources, it is useful to think about the housing needs that emerge after a disaster. Research by E.L. Quarantelli¹ identified four major stages of housing need following a disaster: emergency shelter, temporary shelter, temporary housing, and permanent housing. Emergency shelter is designed to provide a safe location during or immediately after a disaster. In the case of Hurricane Katrina, people sought emergency shelter on roofs and overpasses, for example. Temporary shelter is one stage beyond emergency shelter, and while it lasts longer than emergency shelter, families are generally not able to establish day-to-day routines during their stay. Temporary shelter includes mass shelters that provide food and sleeping accommodation, and homes temporarily shared by friends or family. Temporary housing is housing that is unique to a family and allows them to begin to establish day-to-day routines, but is not seen as permanent. It can last for months or even years, and examples include the temporary trailers often made available while damaged homes are undergoing repair. Permanent housing is a familiar concept and can include families' return to their former residences, new residences in or near their original communities, or permanent relocation in another community.

¹ E.L. Quarantelli, *Sheltering and Housing After Major Community Disasters: Case Studies and General Observations*, University of Delaware Disaster Research Center, 1982.

While most aspects of emergency response are led and organized at the state and local level, the federal government provides resources to aid their efforts.² The Federal Emergency Management Agency (FEMA) generally provides assistance to meet all four states of shelter and housing need. FEMA helps localities designate evacuation areas to provide emergency shelter, and it coordinates with municipalities and organizations such as the American Red Cross and other charitable organizations to establish temporary shelters. FEMA also provides, in conjunction with states and municipalities, temporary housing options including rental assistance payments — sometimes under contract with HUD — that allow families to find temporary accommodation in the private rental market as well as temporary physical structures, such as trailer homes. Finally, FEMA also provides loans and grants to help families repair damaged homes.³ While FEMA is the primary disaster response agency, other federal agencies also contribute housing resources, including the Department of Commerce (the Small Business Administration, primarily), the Department of Agriculture (the Rural Housing Service), the Treasury (various tax programs and incentives, including the Low Income Housing Tax Credit (LIHTC)), and HUD, the agency that is the focus of this report.⁴ Furthermore, a large majority of the restoration and creation of permanent housing, is met through the use of private and public insurance.⁵

Existing HUD Programs and Authority

In responding to disasters, HUD generally focuses on aiding families in the final two stages of housing need; temporary and permanent housing. HUD's programs and assistance in response to disasters fall generally into one of three categories: direct assistance, flexible block grants to states and localities, and mortgage programs.

Direct Assistance Programs

One primary form of direct assistance provided by HUD is rental assistance provided through the Section 8 Housing Choice Voucher program. Section 8 vouchers are used by low-income families to reduce their housing costs in the private

² For more information on the relationship between the federal and local levels of government in response to a disaster, see CRS Report RS21227, *The Emergency Management Assistance Compact (EMAC): An Overview*.

³ FEMA disaster assistance is governed by the provisions of the Stafford Act. For more information, see CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*.

⁴ For a summary of disaster assistance programs, see CRS Report RL31734, *Federal Disaster Recovery Programs: Brief Summaries*.

⁵ For more information, see CRS Report RL32825, *Hurricanes and Disaster Risk Financing Through Insurance: Challenges and Policy Options*, and CRS Report RL32972, *Federal Flood Insurance: The Repetitive Loss Problem*.

market to an “affordable” level.⁶ Families with vouchers pay 30% of their incomes towards rent and the federal government pays the difference between the families’ contributions and the actual rent, up to a limit.⁷ In order to be eligible, families must be very low income,⁸ however, 75% of all vouchers are statutorily targeted to extremely low income families.⁹ The subsidies are portable, meaning families can move anywhere in the country with their vouchers. The program is administered at the local level by quasi-governmental Public Housing Authorities (PHAs), and Congress currently funds approximately 2 million vouchers. In FY2005, Congress provided almost \$15 billion for the voucher program.

Another form of direct assistance provided by HUD is low-rent public housing. Very low income families are eligible to live in one of the nearly 1.2 million units of public housing owned and maintained by local PHAs. Families living in public housing pay 30% of their incomes towards their housing costs, and PHAs receive two streams of federal subsidies — operating funds and capital funds — to help make up the difference between tenant rents and the costs of maintaining the properties. Operating funds are used to help cover day-to-day expenses including utilities, social services, staff and security. Capital funds are used to meet modernization needs, such as building repair and refurbishment. In FY2005, Congress provided approximately \$2.5 billion each to the capital and operating funds.¹⁰

The final form of direct assistance provided by HUD is a hybrid between vouchers and public housing, called project-based rental assistance. The primary project-based rental assistance programs are Section 8 project-based rental assistance, the Section 202 program for the elderly, and the Section 811 program for the disabled. In all three programs, private landlords own and manage housing units for which the rent is subsidized by the federal government. Families who live in the units pay roughly 30% of their incomes towards rent and the federal government pays the landlord the difference between the tenant contribution and the negotiated rent for the unit. Generally, these buildings are FHA-insured (see discussion of FHA insurance below). In FY2004, 1,309,427 units received project-based Section 8 rental assistance, 75,227 units received Section 202 rental assistance, and 21,646 units received Section 811 rental assistance. In FY2005, Congress provided over \$5

⁶ Housing is generally considered affordable if its costs account for no more than 30% of a family’s income.

⁷ The formula is more complicated than presented here. For more information, see CRS Report RL32284, *An Overview of the Section 8 Housing Program*.

⁸ Very low income is defined as income at or below 50% of the local area median income.

⁹ Extremely low income is defined as income at or below 30% of the local area median income.

¹⁰ The FY2005 appropriation for the public housing Operating Fund was artificially low by about \$1 billion because of a one-time savings that Congress was able to realize. For more information, see CRS Report RL32869, *The Department of Housing and Urban Development (HUD): FY2006 Budget*.

billion for project-based Section 8, over \$230 million for Section 811, and over \$740 million for Section 202.¹¹

HUD's direct assistance programs can be both impacted by disasters as well as used as tools in recovering from disasters. When public housing units are damaged, HUD can tap into an existing emergency capital reserve. For private owners of HUD-assisted units, insurance is often available to cover damage, as are SBA loans and HUD loans (discussed below).

HUD-assisted families displaced by a disaster retain their assistance. Displaced voucher holders are eligible to find another unit in which to use their vouchers. For public housing and other project-based assisted families, HUD identifies vacant HUD-assisted units to which they are eligible to relocate.

HUD can also provide resources to non-assisted households; in other words, households that were not previously receiving HUD housing assistance prior to a disaster. Vacant units of HUD direct-assistance housing can be made available during a disaster for non-assisted households. In the past, Congress has also created special emergency short-term vouchers that can be used to provide temporary housing to displaced families.

Flexible Block Grants

HUD administers a number of flexible block grant programs that provide funds to states and localities. The Community Development Block Grant (CDBG) program is the largest of these, funded at \$4.9 billion in FY2005. CDBG funds are formula-allocated to states and local governments in support of 23 categories of eligible activities, including neighborhood revitalization, economic development, and housing activities. Seventy percent of CDBG funds must be used on eligible activities and projects that principally benefit low- or moderate-income persons. CDBG grantees are not required to provide a local match.

The HOME Investment Partnerships Program provides formula-based block grant funding to states, units of local government, Indian tribes and insular areas to fund affordable housing initiatives. Eligible activities include acquisition, rehabilitation and new construction of affordable housing as well as rental assistance for eligible families. Grantees must meet a 25% match requirement, and 90% of all assistance must primarily benefit families at or below 60% of the area median income. For both HOME and CDBG, grantees must submit consolidated plans detailing how they intend to use funds to meet local needs.

¹¹ Note that the appropriations level for project-based Section 8 is lower than the program level because a number of units are funded under long-term contracts that do not require annual appropriations until the contracts expire. Also note that the appropriations provided to the Section 202 and 811 programs include funding for capital grants in addition to rental assistance.

HUD also administers several other special purpose grants and block grants targeting special populations, including the Native American Housing Block Grant, the Homeless Assistance Grants, and the Housing for Persons With AIDS grants.

When communities are impacted by a disaster, HUD has the authority to waive many regulatory requirements governing the use of HOME and CDBG funds.¹² Generally, HUD will issue such waivers and permit local communities to redirect HOME and CDBG funds to meet disaster recovery needs, both short and long-term. Congress has also used CDBG, and, to a smaller extent, HOME, as vehicles for providing emergency funds to communities impacted by disasters.

Mortgage Programs

While HUD does not provide any direct mortgage loan programs, the Federal Housing Administration (FHA) does provide both single and multifamily mortgage insurance. These insurance programs provide security to lenders to encourage them to make loans on terms that would not otherwise be available to prospective homebuyers and to investors wishing to develop multifamily projects serving low- and moderate-income families.

When the President declares a disaster, as in the case of Hurricane Katrina, the declaration automatically triggers certain procedures with regard to FHA-insured mortgages in the affected areas. The procedures remain in effect for one year from the date of the declaration. The following procedures become effective: (1) a moratorium on foreclosures is in effect for 90 days from the date of declaration; (2) lenders are encouraged to offer special forbearance, mortgage modification, refinancing, and waiver of late charges to affected borrowers; (3) families whose residences were destroyed or severely damaged are eligible for 100% financing under Section 203(h) of the National Housing Act for the cost of reconstruction or replacement of the residences; (4) damaged properties become eligible for Section 203(k) financing under which the costs to purchase and to rehabilitate the property are included in one loan, and HUD waives the requirement that the property has been completed for more than one year prior to application for a Section 203(k) mortgage; (5) the underwriting guidelines are relaxed to permit disaster victims to qualify for loans even if their total monthly debt, including the proposed mortgage, would equal 45% of gross income; and (6) lenders are directed to ensure that hazard claims are expeditiously filed and settled, and lenders may not retain hazard insurance proceeds to make up an existing arrearage without the written consent of the borrower.

The Section 203(h) program is available for borrowers who already own homes in the affected area. The loans are limited to the FHA loan limit for the area, subject to the provision that the loan may not exceed 100% of the appraised value of the property. In some cases it may not be possible to obtain 100% financing. It may often be the case that the cost to repair or replace the property exceeds the appraised value of the property. This is the reason that most lenders require borrowers to

¹² For the CDBG program, the Secretary's waiver authority can be found at 42 U.S.C. 5321; for the HOME program, waiver authority can be found at 42 U.S.C. 12840.

obtain hazard insurance that covers the replacement cost of the property instead of its appraised value.

The Section 203(k) program permits borrowers who do not already own homes to purchase and rehabilitate properties in the area that are either abandoned by owners, or are being sold by owners who do not want to repair them and remain in the area.

The current FHA underwriting guidelines provide that a prospective borrower's total debt, including the proposed mortgage payment, may not exceed 41% of the borrower's gross monthly income. In recognition of the fact that borrowers in these areas may have to incur debt to replace personal property, the underwriting guidelines are relaxed to permit loans to borrowers whose total debt is up to 45% of gross monthly income. The limit may even be exceeded if justified by compensating factors.

A Look At Past Disasters

In order to better understand the role of HUD in meeting the housing needs of families and communities impacted by disasters, the following section looks at several past disasters characterized by major housing losses. This section is meant to be an introduction and is not meant to be a comprehensive assessment of post-disaster housing and community recovery. It does not include a discussion of broad community redevelopment nor does it include a discussion of the use of tax incentives.

Table 1 lists past disasters in which Congress has provided supplemental appropriations to HUD, dating back to 1992.

Table 1. Emergency Supplemental Appropriations for Disaster Assistance in Which HUD Received Funds, FY1992-FY2005

| Fiscal Year | Disaster Name/Type | Date Signed Into Law | Public Law Number |
|-------------|------------------------|----------------------|-------------------|
| 1992 | Hurricane Andrew | Sept. 23, 1992 | P.L. 102-368 |
| 1993 | Midwest floods | Aug. 12, 1993 | P.L. 103-75 |
| 1994 | Northridge earthquake | Feb. 12, 1994 | P.L. 103-211 |
| 1996 | Oklahoma City bombing | April 26, 1996 | P.L. 104-134 |
| 1997 | Upper Midwest flooding | June 12, 1997 | P.L. 105-18 |
| 1998 | El Niño floods | May 1, 1998 | P.L. 105-174 |
| 1999 | Flooding | Oct. 21, 1998 | P.L. 105-277 |
| 2000 | Hurricane Floyd | Oct. 20, 1999 | P.L. 106-246 |

| Fiscal Year | Disaster Name/Type | Date Signed Into Law | Public Law Number |
|-------------|--------------------|----------------------|-------------------|
| 2002 | Terrorist attacks | Jan. 10, 2002 | P.L. 107-117 |
| 2002 | Terrorist attacks | Aug. 2, 2002 | P.L. 107-206 |
| 2005 | Florida hurricanes | Oct. 13, 2004 | P.L. 108-324 |

Source: CRS search of supplemental appropriations legislation identified in CRS Report RL33053, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, by Keith Bea.

Hurricane Andrew

On August 24, 1992, Hurricane Andrew struck the coast of southern Florida as a category 5 hurricane, and then moved across the Gulf of Mexico to Louisiana, weakening to a category 3 hurricane as it moved northward.¹³ The majority of the damage occurred in Florida's South Dade County, including the cities of Homestead, Florida City, and Miami. At the time, Andrew was the most destructive hurricane the United States had experienced. Twenty six people died, approximately 250,000 were displaced, and damage was estimated to reach \$26.5 billion.¹⁴ In all, over 25,000 homes were destroyed, and more than 101,000 were damaged.¹⁵

In response to Hurricane Andrew, Congress passed the Dire Emergency Supplemental Appropriations Act, which the President signed into law on September 23, 1992 (P.L. 102-368). It transferred \$183 million from FEMA to HUD for additional Section 8 vouchers, not only for victims of Hurricane Andrew, but for those of Hurricane Iniki, which struck Hawaii on September 11, 1992, and Typhoon Omar, which struck Guam on August 28, 1992. The transfer was expected to fund an estimated 12,000 two-year vouchers for families left homeless by Hurricane Andrew.¹⁶ Another \$100 million was allocated for the development or acquisition of public housing, including major reconstruction of obsolete public housing projects, in the areas affected by Hurricanes Andrew and Iniki, and Typhoon Omar. Congress also appropriated \$60 million for the HOME program. An additional \$500,000 was appropriated for housing counseling assistance to both tenants and homeowners. Finally, FHA received \$30.3 million to allow it to insure loans worth up to \$2.4 billion to assist with rebuilding efforts. These loans were expected to support about

¹³ Hurricane Andrew was upgraded from a category 4 to category 5 hurricane in 2002 by a committee from National Oceanic and Atmospheric Administration/National Hurricane Center. "After Ten Years Hurricane Andrew Gains Strength," NOAA Press Release, August 21, 2002.

¹⁴ National Hurricane Center, [<http://www.nhc.noaa.gov/>].

¹⁵ "HUD Aids Families, Communities After Hurricanes," Department of Housing and Urban Development, Housing Today, Fall 2004.

¹⁶ Housing and Development Reporter, September 28, 1992, p. 386.

95,000 units of single-family and multi-family housing.¹⁷ In connection with use of the Section 8 funds, the public housing funds, and the HOME funds, P.L. 102-368 gave the Secretary of HUD the power to waive any provision of any statute or regulation that the Secretary administered, except those that require nondiscrimination.

Hurricane Andrew destroyed over 11,000 manufactured homes in Florida and Louisiana. Manufactured homes were hit hardest by the hurricane.¹⁸ For example, Andrew destroyed 97% of all manufactured homes in Dade County, compared to 11% of all single family homes.¹⁹ After studying the damage to manufactured homes, HUD developed new construction standards to increase their wind resistance.²⁰ The new rule required improved design to make structures resistant to wind up to 110 miles per hour.²¹

Midwest Flooding

During the summer of 1993, 10 Midwestern states experienced rainfall levels that exceeded the normal range, resulting in large-scale flooding of the Mississippi and Missouri Rivers, and various smaller rivers and tributaries that flow into them.²² In nine states (Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin) rivers overflowed their banks and levees, destroying homes and requiring many to evacuate. According to FEMA, 534 counties were declared eligible for disaster aid, and 168,340 people applied for federal assistance. Approximately 50 people died as a result of the floods, and 54,000 people were left homeless. Estimates of property damage ranged from \$12 to \$16 billion.²³

In August 1993, Congress passed the Supplemental Appropriations for Relief from the Major, Widespread Flooding of the Midwest Act (P.L. 103-75). The law appropriated \$50 million for HUD's HOME program, and \$200 million for CDBG, of which \$25 million was earmarked for immediate recovery needs not reimbursable

¹⁷ Ibid.

¹⁸ HUD defines a manufactured home as "a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein." 24 CFR section 3280.2 (2005).

¹⁹ *Federal Register*, volume 59, p. 2457, January 14, 1994.

²⁰ The regulations are found at 24 CFR sections 3280.1-3280.904 (2005).

²¹ *Federal Register*, volume 59, pp. 2456-2471, January 14, 1994.

²² Lee W. Larson, "The Great USA Flood of 1993," National Oceanic and Atmospheric Administration, presented at International Association of Hydrological Studies conference, June 24-28, 1996.

²³ "The 1993 Great Midwest Flood: Voices Ten Years Later," Federal Emergency Management Agency, May 2003.

by FEMA. On February 12, 1994, P.L. 103-211 made available an additional \$500 million in CDBG funds for both the Midwest flood recovery efforts, and the damage caused by the 1994 Northridge earthquake in California. Of the \$500 million, the HUD Secretary was given the authority to transfer up to \$75 million to the HOME program. In connection with use of both the HOME and CDBG funds, P.L. 103-75 gave the Secretary of HUD the power to waive any provision of any statute or regulation that the Secretary administered, except those relating to fair housing, nondiscrimination, the environment, and labor standards.

HUD directed that CDBG funds be used only to repair, replace or restore facilities, including housing, damaged by the floods.²⁴ HUD waived the limits on the amount of CDBG funds that could be used for new construction for flood-damaged properties. All nine affected states received CDBG funds in 1993 and 1994. Illinois received \$84.1 million, Iowa \$96.3 million, Kansas \$37.2 million, Minnesota \$27.1 million, Missouri \$136.8 million, Nebraska \$23.1 million, North Dakota \$19.6 million, South Dakota \$12.8 million, and Wisconsin \$13.1 million.²⁵ HOME dollars were also distributed to each of the nine flood-damaged states. Illinois received \$10.8 million, Iowa \$11.4 million, Kansas \$3.4 million, Minnesota \$2.7 million, Missouri \$15.3 million, Nebraska \$1.3 million, North Dakota \$2.6 million, South Dakota \$1.3 million, and Wisconsin \$1.3 million.

After floods it is common for local communities to engage in mitigation activities that will protect properties located on flood plains against future damage. Mitigation activities include buy outs, relocation, elevation, and flood proofing. In the buy out, local communities purchase the properties of businesses and homeowners located on flood plains. Owners agree to sell voluntarily so that they can afford to relocate to areas that are not at risk of flooding. Some of the cities that were damaged by the Midwest flood used CDBG money to buy out properties located on flood plains. For example, St. Charles County, Missouri used \$8.8 million in CDBG funds together with \$5.78 million from FEMA to purchase 1,159 properties located on the flood plain.²⁶ Arnold, Missouri used \$1.4 million in CDBG funds combined with an additional \$2.9 million from FEMA to buy out 72 properties. After the Midwest flood, a total of 12,385 properties were mitigated through a combination of funds, including CDBG. Of these, 11,888 were bought out, 356 were relocated, 31 were elevated, and 110 were flood proofed.²⁷

Northridge Earthquake

At 4:30 on the morning of January 17, 1994, a 6.7 magnitude earthquake hit the greater Los Angeles area. The Northridge Earthquake was the costliest in the nation's history, with losses estimated at between \$20 and \$40 billion. More than 50

²⁴ Housing and Development Reporter, August 30, 1993, p. 230.

²⁵ "Sharing the Challenge: Floodplain Management Into The 21st Century," Report of the Interagency Floodplain Management Review Committee to the Administration Floodplain Management Task Force, June 1994, p. 23.

²⁶ "The 1993 Great Midwest Flood: Voices Ten Years Later," p. 29.

²⁷ Ibid. A-19.

people were killed and more than 9,000 were injured.²⁸ Over 65,000 residential buildings were damaged in Los Angeles, which represented more than 250,000 units of multifamily housing and almost 50,000 units of single family housing.²⁹

Congress responded to the disaster by passing several supplemental appropriations bills. The Northridge Emergency Supplemental Appropriations bill, signed into law on February 12, 1994 (P.L. 103-211), provided nearly \$900 million in appropriations to HUD programs for impacted communities. Two-hundred million was directed to provide Section 8 rental assistance/vouchers to impacted families. Twenty-five million was provided to repair damaged public housing and \$100 million was provided to repair damaged privately-owned assisted housing through the Flexible Subsidy Fund.³⁰ Congress provided CDBG with \$500 million, up to \$75 million of which was transferrable to the HOME block grant program, to be used both for communities impacted by the Northridge Earthquake as well as those still recovering from the earlier Midwest flooding. For all of these funds, the Secretary was given the authority to waive or specify alternative requirements for any statute or regulation in connection with the obligation of the Secretary or use by the recipient of the funds, as long as the waiver was not inconsistent with the overall purpose of the statute or regulation. The waiver authority was not available in the case of fair housing, nondiscrimination, environmental or labor standards. In addition to the funding provided, P.L. 103-211 made modifications to the Section 203(h) and Section 203(k) programs within the Federal Housing Administration, expanding the benefits that could be provided to households impacted by the Northridge earthquake, although the changes were only effective for 18 months.

The Northridge Earthquake resulted in the displacement of thousands of families; as of April 1994, 88,000 people had not returned home, 57,000 of whom were staying with friends and family. In recognition of the serious housing problem, Los Angeles convened a housing task force on January 20, 1994 that included participants from the city, the county, the American Red Cross, the California Department of Housing and Community Development, the Governors Office of Emergency Services, FEMA, and HUD. The task force had two main objectives; first, to get people into shelters and registered with FEMA and second, to quickly get people out of shelters and into replacement housing.³¹

²⁸ United States Geological Survey, USGS Response to an Urban Earthquake — Northridge '94, 1996. Available at [<http://pubs.usgs.gov/of/1996/ofr-96-0263/>].

²⁹ Department of Housing and Urban Development, Preparing for the “Big-One”: Saving Lives Through Earthquake Mitigation in Los Angeles, California, January 1995.

³⁰ The Flexible Subsidy Fund was an account that provided federal aid for troubled multifamily housing projects, as well as capital improvement funds for both troubled and stable subsidized projects. No new commitments are being made through this program currently.

³¹ Joanne Nigg and Richard Eisner, Earthquake Response: Intergovernmental Structure and Policy Innovation, University of Delaware Disaster Research Center, 1997.

Emergency short-term vouchers, funded both through the Section 8 program and through CDBG³² were provided to impacted families. A high percentage of those voucher holders were able to use them within the same zip code as the home from which they were displaced.³³ City officials interviewed a year after the Northridge Earthquake expressed concern about what would happen to families with temporary vouchers when they expired, noting that most families who had received them had not ceased using them.³⁴ They stated that the city was pursuing options to have the vouchers made permanent and, in fact, they were eventually made permanent by Congress and absorbed into the Housing Authority of Los Angeles County's mainstream voucher program.³⁵ A July 26, 1994 report by the HUD Inspector General praised HUD and the PHAs for responding quickly to the Northridge disaster by providing vouchers, but found that there was an overlap in federal help. Families were provided vouchers without first having been screened to assure that they were not also receiving FEMA assistance. HUD's Office of Public and Indian Housing responded that families may have used the FEMA assistance for purposes beyond rent, such as storage, purchase of furniture, moving expenses and utility connection charges and that the assistance should therefore not necessarily be considered duplicative.

HUD used the \$100 million in supplemental Flexible Subsidy Funds to develop a new program, introduced that spring, called the HUD Earthquake Loan Program (HELP). The funds were available first for FHA-insured multifamily properties that were impacted by the earthquake, and second for other non-FHA-insured multifamily HUD-assisted properties that had been impacted.³⁶ HELP funds could be used to cover mortgage payments, loss of rent, temporary staffing costs, tenant relocation expenses, building repair or replacement, retrofitting, and to meet code requirements. A HUD Inspector General report issued in 1998 found that HUD had not designed the HELP initiative with sufficient controls to prevent waste, fraud, and abuse. The report identified at least \$7.1 million in questionable funds awarded to 27 projects and directed the Department to investigate and attempt to recover those funds.³⁷

HOME and CDBG funds were used in the short-term to provide rental assistance, to meet social service needs (i.e. set up intake centers and provide housing

³² Jie Ying Wu and Michael Lindell, *Housing Reconstruction after Two Major Earthquakes: The 1994 Northridge Earthquake in the U.S. and the 1999 Chi-Chi Earthquake in Taiwan, Disasters*, 2004, 28(1) pp. 63-81.

³³ Spangle Associates with Robert Olson Associates, Inc., *The Recovery and Reconstruction Plan of the City of Los Angeles: Evaluation of its use after the Northridge Earthquake*, August 1997.

³⁴ *Ibid.*

³⁵ John Gonzales, "Rent Subsidies for Quake Victims to be Extended Indefinitely," *Los Angeles Times*, Metro Desk, May 29, 1996.

³⁶ HUD Notice H-94-15.

³⁷ HUD Inspector General Report August 31, 1998 98-CF-112-0001.

counseling),³⁸ and some funds were used for longer-term redevelopment, including financing repairs on units that could not qualify for Small Business Administration (SBA) loans.³⁹ Shortly before the earthquake struck, HUD had amended the minimum property standards to which HUD funded housing must comply to include seismic safety standards. It was hoped that new units assisted with HELP, HOME, or CDBG funds would be better equipped for a future earthquake as a result of the changes to these standards.⁴⁰

2004 Hurricane Season

The 2004 Atlantic hurricane season was one of the most active and destructive in recent memory. Eight named storms formed, four of which, in the span of about four weeks, wreaked havoc on the southern United States across 12 states, although Florida was by far hit the hardest. On August 13, a category 4 hurricane, Charley, made landfall on the southwest coast of Florida. The strongest storm to hit the United States since Hurricane Andrew, Charley caused about \$14 billion in damages and resulted in 10 deaths in the United States.⁴¹ On September 6, a category 2 hurricane, Frances, made landfall in the United States, striking the central western coast of Florida. Frances left five dead in Florida and \$9 billion in damages.⁴² Less than two weeks later, on September 16, Ivan, a category 3 hurricane made landfall on the gulf coast of Alabama and the western Florida panhandle. Hurricane Ivan left 25 dead in the United States and over \$13 billion in damages.⁴³ Finally, on September 26, category 3 Hurricane Jeanne struck the eastern coast of Florida, leaving four Floridians dead and \$6.8 billion in damages.⁴⁴

President Bush responded by making five supplemental funding requests to Congress of almost \$14 billion. Congress responded by passing two supplemental funding measures totaling \$13.6 billion. The Military Construction Appropriations

³⁸ Spangle Associates with Robert Olson Associates, Inc., *The Recovery and Reconstruction Plan of the City of Los Angeles: Evaluation of its use after the Northridge Earthquake*, August 1997.

³⁹ Mary Comerio, et.al. *Residential Earthquake Recovery: Improving California's Post-Disaster Rebuilding Policies and Program*, September 1996.

⁴⁰ Department of Housing and Urban Development, *Preparing for the "Big-One": Saving Lives Through Earthquake Mitigation in Los Angeles, California*, January 1995.

⁴¹ National Weather Service, National Hurricane Center, Tropical Prediction Center, *Tropical Cyclone Report on Hurricane Charley*, available at [<http://www.nhc.noaa.gov/2004charley.shtml?>].

⁴² National Weather Service, National Hurricane Center, Tropical Prediction Center, *Tropical Cyclone Report on Hurricane Frances*, available at [<http://www.nhc.noaa.gov/2004frances.shtml?>].

⁴³ National Weather Service, National Hurricane Center, Tropical Prediction Center, *Tropical Cyclone Report on Hurricane Ivan*, available at [<http://www.nhc.noaa.gov/2004ivan.shtml?>].

⁴⁴ National Weather Service, National Hurricane Center, Tropical Prediction Center, *Tropical Cyclone Report on Hurricane Jeanne*, available at [<http://www.nhc.noaa.gov/2004jeanne.shtml?>].

Act and Emergency Hurricane Supplemental Appropriations law (P.L. 108-324), provided \$150 million for CDBG. The funds were designated only for use for disaster relief, long-term recovery, and mitigation in communities affected by disasters designated by the President between August 31, 2003, and October 1, 2004. The funds were to be awarded by the Secretary directly to states, who were permitted to allocate them to entitlement communities. The Secretary was also given discretion to waive or specify alternative requirements for any statute or regulation in connection with the obligation of the Secretary or use by the recipient of the funds, as long as the waiver was not inconsistent with the overall purpose of the statute or regulation. The waiver authority did not apply to fair housing, nondiscrimination, environmental or labor standards, and at least 50% of the funds provided had to benefit primarily low- and moderate-income families. The funds could not be used for any project underway before the disaster unless the project was impacted by the disaster. States were required to provide a 10% match. The conference report accompanying the law (H.Rept. 108-773) directed HUD to coordinate with FEMA to ensure that funds were used only for disasters and targeted to the areas of greatest need. The Conferees also directed HUD to report back to the Appropriations Committees prior to any allocation of funds and to submit quarterly reports on their use thereafter.

Prior to the allocation of emergency CDBG funds, HUD took a number of steps to respond to the 2004 Florida hurricanes. HUD identified vacant HUD subsidized multifamily units and HUD-owned homes that could be used as temporary housing, relocated displaced HUD-assisted families, permitted HOME and CDBG grantees to reprogram existing funds to meet disaster needs, activated the 203(h) program and 203(k) program waivers and issued a 90-day foreclosure moratorium for FHA-insured properties.⁴⁵

On December 10, 2005, HUD published a notice in the Federal Register informing impacted states of their eligibility for emergency CDBG funds. The notice included the state allocations and informed states that, in order to access the funds, they must first submit a plan detailing how they will use the funds. The allocation formula used SBA and FEMA data on unmet housing, business and public assistance needs for all designated areas in major disaster declarations. The formula weighted unmet housing needs at 50%, unmet business needs at 25%, and unmet public assistance needs at 25%. The notice also specified waivers applicable to HOME and CDBG funds used for disaster assistance, primarily related to planning requirements.⁴⁶

Over the course of the recovery, HUD also provided more than \$26 million in emergency capital reserve funding to repair damaged public housing units; \$40 million in additional Section 8 voucher funding to meet the increased costs of serving currently assisted families whose rent had gone up because of a housing shortage

⁴⁵ HUD Aids Families and Communities, Housing Today, Fall 2004, available at [<http://www.hud.gov/local/fl/news/2004-11-30.cfm>].

⁴⁶ *Federal Register*, vol. 69, no. 237, December 10, 2004.

caused by the hurricanes; \$10 million for repair of Section 202 and Section 811 properties; and \$16 million to relocate displaced HUD-assisted families.⁴⁷

The four 2004 hurricanes resulted in damage to more than 700,000 homes⁴⁸ in Florida. Poor families were disproportionately impacted.⁴⁹ In response, on November 10, 2004, the governor of Florida named a hurricane housing task force to advise the state legislature on how to create more affordable housing. On February 18, 2005, the group made its final report. It recommended, in addition to the regular allocation of housing funds, the state legislature approve a one-time infusion of \$354 million in state funds to develop several new affordable housing programs including, among others, a Hurricane Housing Recovery Program, a Rental Recovery Loan Program, and a Farmworker Housing Recovery Program.⁵⁰

In March 2005, the state of Florida Department of Community Affairs (DCA) submitted its plan to spend its emergency CDBG funds to HUD. The Action Plan for Disaster Recovery states that emergency CDBG funds will be used for repairs, long-term recovery and mitigation. Given Congress's direction that funds be used in the hardest hit areas, the DCA's plan specifies that rather than providing funds to all 67 areas that had been declared emergencies in the wake of the hurricanes, they will invite the 15 communities that were hardest hit to apply for emergency CDBG funds. The plan specifies that the first priority will be given to infrastructure and public assistance projects. Second priority will go to economic development and business assistance projects, including those designed to promote job creation and/or retention. Third priority is given to housing repair and development projects. The plan explains that housing projects are given the lowest priority because of the expectation that the state legislature will fund the governor's affordable housing plan (described earlier).⁵¹

Initial HUD Response to Hurricane Katrina

In the case of Hurricane Katrina, displaced families are primarily in the middle two of the stages of shelter and housing need. Many are still quartered in temporary shelters, such as the Houston Astrodome and cruise ships, in hotels, and with family and friends. Trailers to provide temporary housing have been ordered, although, to date, they have not become available in large numbers.⁵² The full extent of the

⁴⁷ Report and Recommendations of the Hurricane Housing Work Group, submitted to the Governor of Florida on February 18, 2005.

⁴⁸ Ibid. The work group report noted that 15,000 families still lived in FEMA trailers.

⁴⁹ Ibid. According to the housing work group report, 36% of families registered with FEMA had annual incomes of less than \$20,000, and of those deemed to have inadequate insurance, 53% had incomes of less than \$20,000 or less and 74% had incomes less than \$30,000.

⁵⁰ Ibid.

⁵¹ Florida Department of Community Affairs, Action Plan for the Use of Disaster Recovery Funds, available at [<http://www.floridacommunitydevelopment.org/disasterrecovery.cfm>].

⁵² Eric Lipton, "Housing: A Rush to Set Up U.S. Housing for Storm Survivors," *New York* (continued...)

displaced families' housing needs are still unknown, although it is generally accepted that all efforts should be made to get families out of temporary shelter and into temporary, if not permanent, housing as quickly as possible.

The Administration has taken a number of first steps designed to make housing programs and assistance available to victims of Katrina. HUD has established a toll-free number (1-888-297-8685) for HUD-assisted families who have been displaced — such as public housing residents and Section 8 voucher holders — to call in order to reestablish their benefits. In conjunction with that number, the Department has identified a number of vacant units across the country in which to house displaced tenants, both formerly assisted and unassisted. As in past disasters, the Secretary has encouraged local communities to apply for waivers in order to redirect their existing HOME and CDBG funds to their emergency needs. The Secretary also has stated that the Department will tap its public housing emergency capital reserve to fund the repair of damaged public housing units.

On August 31, 2005, HUD issued mortgage letter 2005-33. It reminded HUD-approved lenders that when the President declares a disaster, as in the case of Hurricane Katrina, the declaration automatically triggers certain procedures with regard to FHA-insured mortgages in the affected areas (see discussion earlier under heading “Mortgage Products”).

Over the long term, a number of new proposals will likely be considered. HUD press releases have stated that the agency may pursue from Congress: funds to provide additional voucher assistance; enhanced statutory flexibility in the HOME and CDBG program; and the potential development of new programs, including a single family housing tax credit. Other proposals that could be considered may include the provision of emergency supplemental funds for HOME and CDBG, an expansion of the LIHTC program, and the development of a regional redevelopment authority to coordinate the resources and plan for the long-term recovery from Katrina.

On September 8, 2005, Senator Reid introduced the Katrina Emergency Relief Act of 2005 (S. 1637). Title III includes the “Helping to House Victims of Hurricane Katrina Act of 2005.” The bill would provide \$3.5 billion in emergency supplemental appropriations to HUD to fund temporary vouchers for families displaced by Hurricane Katrina. The vouchers would be authorized for six months, but would be extended for an additional six months unless the Secretary determined that they were no longer needed. Funding would also be available to provide related assistance to families, such as security deposits and relocation assistance. Many of the rules regarding eligibility and tenant payments would be waived and the upper limit on the amount of assistance that can be provided would be raised from the current standard of 110% of the local Fair Market Rent to 150% of the local Fair Market Rent. Also on September 8, Senator Sarbanes offered the same “Helping to House Victims of Hurricane Katrina Act of 2005” as a floor amendment, number 1662, to the Commerce-Justice-Science FY2006 appropriations bill (H.R. 2862).

⁵² (...continued)

Times, September 13, 2005.

A number of questions arise when considering any of these options. How will assistance that is generally directed to states directly affected by a disaster be modified to account for the spillover effects of Katrina? How long will waivers of program rules be in effect and what equity and accountability issues may such waivers raise? What can be done to help families that need to smoothly transition from emergency FEMA assistance to longer-term HUD assistance? How long should assistance be available, and what strings should be attached to it? Congress will grapple with these questions not only in trying to address the housing needs arising from Katrina, but also in trying to address the myriad of other needs — education, employment, health, nutrition — that Katrina has created.