

**Comments of John Henneberger, co-director
Texas Low Income Housing Information Service
on the Texas Hurricane Ike & Dolly Proposed Action Plan**

The Texas Low Income Housing Information Service (TxLIHIS)* is the state's foremost expert on the housing needs and housing programs for low-income families. We have devoted a substantial portion of our resources over the past four years to research and evaluation of housing programs for survivors of Hurricanes Katrina, Rita, Dolly and Ike.

We offer fifteen recommendations to the State of Texas for allocating funds and designing and implementing programs to utilize the \$1.3 billion in Community Development Block Grant (CDBG) funds to assist in the housing rebuilding efforts for Hurricanes Dolly and Ike.

Reference is made from each of the recommendations to endnotes containing an expanded explanation of our recommendations.

- 1) Establish a Texas Disaster Recovery Authority to oversee allocation, program design and implementation of disaster recovery.¹**
- 2) Make housing rebuilding the top priority in the allocation of disaster rebuilding funds.²**
- 3) Provide uniform state program and benefit levels in post-disaster housing rebuilding programs.³**
- 4) Insist that FEMA release data to the State regarding individual housing damage so that the State can have the best data to make funding allocations.⁴**
- 5) Establish a simple structure of five housing assistance programs to rebuild homes.⁵**
 - Emergency weatherproofing program.**
 - Comprehensive rehabilitation or reconstruction.**
 - Faith-based/nonprofit housing rehabilitation program.**
 - Public housing rehabilitation and reconstruction program.**
 - Affordable rental housing partnership program.**

* The mission of the Texas Low Income Housing Information Service (TxLIHIS) is to support low-income Texans' efforts to achieve the American dream of a decent, affordable home in a quality neighborhood.

TxLIHIS was founded in 1988 by public and private housing providers, low-income people and other community leaders who subscribe to the national goal of decent, affordable housing for all Americans and who believe there must be an organized, concerted effort to achieve that goal in Texas. TxLIHIS is Texas' foremost supporter of housing for the poor and for neighborhood preservation, and is one Texas' primary source of research on low-income housing.

- 6) **Build on existing investments in housing programs to ensure funds are available as quickly and efficiently as possible.**⁶
- 7) **Put in place effective consumer protections for homeowners dealing with contractors to rebuild their homes.**⁷
- 8) **Design protections into loans, deeds and covenants associated with state funded housing programs to protect low-income consumers from losing their homes.**⁸
- 9) **Establish a program to provide emergency repairs in order to minimize additional costs occasioned by further weather damage.**⁹
- 10) **Maximize the contributions of faith-based groups to rebuild and repair houses.**¹⁰
- 11) **Provide for access to affordable homeowner's insurance for low-income homeowners.**¹¹
- 12) **Design housing programs in a manner that breaks down housing segregation and concentrations of poverty.**¹²
- 13) **Design new houses and rehabilitation work to produce homes that are truly affordable to maintain and are highly energy efficient.**¹³
- 14) **Adequately fund the repair and reconstruction of affordable rental housing.**¹⁴
- 15) **Develop models to combine temporary housing and permanent housing and ensure that assisted homes will survive future hurricanes and flooding. Use Hurricane Ike disaster programs to develop and test models for better housing solutions for the next disaster**¹⁵

We state our objections to the following proposed requests for waivers. The basis for our objections are set out in the narrative of our comments.

- ▶ Waiver of 70% required overall benefit to LMI – adjusted to 50%
- ▶ Waiver of requirement to distribute to units of local government only
- ▶ Waiver of required consistency with consolidated plan
- ▶ Waiver of Action Plan requirements; substituting an Action Plan for Disaster Recovery
- ▶ Waiver of certain citizen participation requirements to streamline the process
- ▶ Waiver of administration cap to allow up to 5%
- ▶ Waiver allowing homeownership assistance to persons up to 120% of median income
- ▶ Waiver of certain URA and relocation requirements
- ▶ Waiver to allow state flexibility on requirements re: program income
- ▶ Waiver of standard certifications; substituting alternative certifications
- ▶ Waiver allowing reimbursement for pre-agreement costs

¹ Establish a Texas Disaster Recovery Authority to oversee allocation, program design and implementation of disaster recovery.

Texas' draft plan for the expenditure of \$1.3 billion in federal Community Development Block Grant (CDBG) funds for Hurricanes Dolly and Ike long-term recovery fails to provide the type of plan required by federal law. The plan proposes no specific allocations or explicit programs and establishes an arbitrary plan to allocate disaster recovery funds at a future date with no effective opportunity for public review or input. The proposed plan will leave the critical housing needs of Texas families unmet.

The plan is improperly conceived and presented. As a result, we believe the federal government will reject it. Such a false start will delay the release of the badly needed rebuilding funds that are desperately needed to help restore the homes of Texans. It is already a distraction from the difficult choices that the Governor must ultimately make regarding how to spend the inadequate amount of disaster funds available.

As opposed to the current draft disaster plan, we were impressed with the thoughtful and responsible Hurricane Rita disaster plan that came from Governor Perry. That a document like this new Hurricane Dolly/Ike plan actually got released is a huge disappointment. There were warning signs however. Most significant was when the Governor entrusted disaster recovery planning and administration to the Texas Office of Rural Community Affairs (ORCA). ORCA is a state agency so plagued by poor performance that it was recommended for abolition just two years ago by the state agency that assesses the effectiveness of state government.

The Texas Sunset Commission staff report on ORCA, a small agency charged with promoting the needs of rural communities, found that, "ORCA lacks the leadership and focus needed to effectively serve rural Texas."

ORCA is simply out of its league in undertaking to plan and oversee the largest public assistance program in Texas history. According to the independent Sunset review of ORCA, the agency could not even manage to oversee efforts to aid Texas' rapidly shrinking rural communities.

Sunset staff found that the agency effectively manages the two rural programs under its purview, but cannot serve the role of setting priorities and charting a clear course of action for tackling the issues facing rural Texas...

"ORCA has not met the Legislature's expectations to create a rural policy and provide recommendations to improve rural programs across state agencies. ORCA continues to rely on an overly-complex process for awarding rural community development grants, contributing to delays in getting funds to local communities."

ORCA's main role is to oversee the allocation of the annual Community Development Block Grant program for small cities and rural counties. Yet even in this modest program that has been in place for more than twenty years ORCA has experienced problems getting the money out the door of the agency and into the hands of the people who need help. The Sunset review that advised abolishing ORCA cited slow CDBG expenditures in its report...

"ORCA continues to rely on a complex system for awarding regionally allocated rural CDBG funds, using multiple entities to score and approve grant applications ... This structure can create delays in funding and may not make the best use of existing local resources. Sunset staff found that ORCA's process for approving rural CDBG grants can delay funding to cities and counties by several months, and may have contributed to Texas having an unexpended balance of about \$4.5 million from its 2005 HUD allocation. HUD encourages states to timely expend their CDBG funds, increasing expenditures to at least equal the annual grant amount. Typically, Texas receives its rural CDBG allocation from HUD in March, however ORCA does not award the grants until June. This can delay the start of projects by about three months, making it more difficult for recipients to expend the funds within the time provided for in their project contracts."

This same inefficient allocation process forms the basis for the proposed allocation plan proposed in the draft Hurricane Recovery Plan.

I'll first describe the proposed plan as best I can from its highly incomplete and confusing rhetoric and then look at the multitude of ways the plan fails Texas hurricane survivors.

The plan acknowledges that the \$1.3 billion in Community Development Block Grant (CDBG) funds represent the primary source of funds available for rebuilding. The plan proposes (in tortured language) a "triangular approach" to disaster recovery through three activities: public infrastructure, economic development and housing. These three broad activities comprise not a defined plan but instead a mere recitation of all of the activities permitted under federal law. The plan notes...

"The Proposed Action Plan is being prepared considering a triangular approach to disaster recovery - public infrastructure, economic development, and housing - with each piece critical to the recovery effort. A common framework is being established that incorporates a balance of public infrastructure, economic development, and housing that can work with the other initiatives taking place of the federal and state levels."

The "framework" and the "balance" between public infrastructure, economic development and housing are nowhere to be found in the plan.

The 22 page plan (including maps and attachments) says nothing about what the money will be spent for nor does it detail the programs that will be created to assist hurricane survivors to rebuild. The plan simply states that any activities that are permitted under federal law might be undertaken with the funds, but that no plan is yet ready. This is a problem because the plan is the only opportunity that anyone has to

learn about and comment upon the state's disaster recovery plan. The ORCA plan simply says, "give us the money and we will consult privately with who we choose and spend the money how we wish." This is the first of several fatal flaws in the plan. Program allocations and the program details are elements that are required to be included in the plan to gain federal approval.

The plan offers no definitions for the types of public infrastructure, economic development and housing that will be allowable activities nor does it prioritize in any manner between these activities. Instead the plan continues in confused and opaque language to suggest that instead of the State and Governor providing leadership and setting priorities for the use of the federal funds (as explicitly required in federal statute) the Governor passes off all his responsibilities to "local communities". The plan states...

"The development of the Proposed Action Plan considers a locally driven process with priorities established at the local level and then working with the Office of the Governor, community leaders, advisory groups, Councils of Government (COGs), and others to maximize the funds and place funding where the highest needs exist. This approach allows for local communities to take ownership and pride in rebuilding their communities in a way that will rebuild the coastal region to a level that will not only allow them to rebound from these disasters, but to help grow Texas stronger."

Despite the rhetoric about "communities" making decisions, the proposal actually turns over authority not to the community but to self elected boards of "Councils of Government" (COGs). This is familiar turf for ORCA. ORCA administers the annual state small cities and rural CDBG program in a similar manner. ORCA exercises no effective leadership or direction in the state's annual CDBG program, transforming it instead into a revenue sharing program for small cities and rural counties. Each year the money is divided on a pro rated basis among the 24 COGs that cover the state and their self appointed boards which, in conjunction with regional review committees composed of the same individuals who make up the COGs, divvy up the money among themselves.

An example of political self-dealing can be found among COGs that have adopted an approach described by ORCA officials as the "Gentleman's Agreement." Instead of going through the process of allocating funds to the most worthy projects or to the most needy areas, funds are allocated on a revolving basis among the cities and counties to use for any projects regardless of the project's merit or the public need addressed by the project. This process allows one county to build recreational boat launching areas with CDBG funds while nearby communities of poor families live without sewer or drinking water.

The "Gentleman's Agreement" method of allocating CDBG funds has been allowed to operate for many years by ORCA despite calls for reform. Now this same bankrupt process is being proposed through the ORCA Dolly/Ike plan for the allocation of \$1.3 billion of disaster recovery funds. Here again is language from the ORCA plan...

“After the allocation for each COG is determined, the COG region will be responsible for allocation of funding between housing and non-housing activities based on input from the local communities. This allocation of funding will be determined by the COG using damage assessment data collected, public input, and will give special consideration to those areas impacted by storm surge and sustained wind speeds greater than 55 mph for Hurricane Ike.”

“All available funds will be allocated in this fashion with the exception of 5% for state administrative costs and 15% for planning activities. The [federal] requirement for the 10% for repair, rehabilitation, and reconstruction of affordable rental housing stock where there is demonstrated need will apply at the regional level.”

The ORCA plan turns a disaster recovery program into a “pork barrel” program. Pork barrel is defined as “a government project or appropriation that yields jobs or other benefits to a specific locale and patronage opportunities to its political representative.” ORCA’s plan establishes a program that is not directed at individual assistance through programs with consistent, cross-jurisdictional benefit levels. Instead it provides arbitrary transfers of disaster recovery funds into the hands of self-selected local elected officials to use as they determine.

Local officials are concerned principally with spending public money for public works projects and economic development projects. A local official given a choice between spending funds to undertake a public works project, an economic development project and helping a limited number of families rebuild their homes, as the plan does, which will most local officials choose? I suggest that it will not be the housing program. Elected officials can defer a tax increase by funding the public works project and can curry favor with campaign contributors with the economic development project. Getting the families back into their homes offers a local official far less political payoff.

Think this is too cynical? Consider the track record for ORCA’s annual small cities and state CDBG program. That program operates under this same approach of letting local officials decide how to spend the money. The result: it has been years since one dollar of CDBG funds have been spent under the Texas CDBG program to directly help a Texas family with their housing needs. Instead all of the money is allocated by local officials to economic development and public works.

While the ORCA plan offers no direction as to what sort of disaster assistance the COGs may undertake, it does deal with the one issue of most concern to those who want to get access to the pork barrel, namely how to regionally divide the money among the COGs. Yet the formula for the regional allocation of funds is based on bad data, resulting in an unfair fund allocation as we explore at length in the endnotes accompanying our recommendation number three. ORCA did not take the time or make the effort to envision a program to help the hurricane survivors but instead devoted the bulk of the plan toward how to divide up the money. Even in the plan to divide up the money we will detail how ORCA failed to employ a valid methodology to determining regional allocations.

Claims of local effectiveness in administration of housing disaster funds

There have been a lot of claims voiced by Councils of Governments (COGs), local officials and the Texas Office of Rural Community Affairs (ORCA) that there will be greater efficiencies and cost savings in allowing disaster recovery funds to be administered locally. To test the accuracy of these claims we can examine the track record of the administration of disaster relief funds over the past two and one-half years by COGs and the largest unit of local government.

On July 28, 2006, 29 months ago, the Texas Department of Housing and Community Affairs (TDHCA) approved a plan, proposed by three southeast Texas Councils of Government to administer \$40,259,276 in Community Development disaster relief funds to repair and rebuild houses damaged by Hurricane Rita.

The COGs contracted with the State of Texas to spend the money to repair and rebuild 1,487 houses. The chart below shows the housing programs the COGs contracted to undertake.

COG	EMERGENCY REPAIRS	HOUSING REHAB	HOUSING RECONSTRUCTION	DOWN PAYMENT ASSISTANCE	TOTAL
Deep East Texas COG	300	200	6	-	506
Houston-Galveston Area COG	271	81	21	27	400
SE TX Regional Planning Comm COG	271	108	189	21	581

Twenty-nine months later the three COGs have completed rebuilding a grand total of only 340 houses (135 site built homes and an additional 205 mobile homes). The COGs amended their original contract to work on 1,487 homes and now propose to complete a total of only 507 houses, 34 percent of the overall number they originally contracted to assist. If the COGs eventually reach their goal of 507 homes, the average amount of CDBG funds spent by the COGs per home (at current rates of expenditure) will be \$75,000, with 60 percent of these homes being mobile homes.

It is important to point out that the COGs have abandoned their original plans to repair all but 30 homes. The efforts to undertake the more complex and challenging work of repairing homes have been largely abandoned.

The tables below report on the budgets, contractual obligations and accomplishments of the COGs as of December 1, 2008 as reported in the latest official report prepared by TDHCA.

COG	BUDGET	HOUSES	COST PER HOUSE
Deep East Texas COG	\$6,745,034	96	\$70,261
Houston-Galveston Area COG	\$7,015,706	105	\$66,816
SE TX Regional Planning Comm COG	\$26,348,536	229	\$115,059

Accomplishments as of 12/1/2008			
COG	PROMISED	SITE-BUILT HOUSES	MOBILE HOMES
Deep East Texas COG	96	10	99
Houston-Galveston Area COG	105	11	59
SE TX Regional Planning Comm COG	229	114	47

Accomplishments as of 12/1/2008				
COG	PROMISED	SITE-BUILT HOUSES COMPLETE	MOBILE HOMES PURCHASED & INSTALLED	% COMPLETE
Deep East Texas COG	96	10	99	114%
Houston-Galveston Area COG	105	11	59	67%
SE TX Regional Planning Comm COG	229	114	47	70%
TOTAL	430	135	205	79%

I do not imply that this project was easy. Nor do I wish to imply that the COGs did not do their best and act in good faith.

I do however challenge the claims ORCA, the COGs and their supporters are making about the greater speed, efficiency and thus, the desirability of turning over the new \$1.3 billion disaster program to these entities that were obviously so severely challenged in attempting to administer a much smaller \$40 million program.

FEMA estimated that 11,195 Texas homes suffered major damage or were destroyed by Hurricane Rita. The Texas Governor's office estimated 75,000. It has taken the COGs twenty-nine months to complete 340 houses. Thirty homes rehabilitated out of the originally contracted 1,231 is also deeply disappointing. At this rate it will take somewhere between 40 and 250 years to get all the homes repaired or replaced.

It goes without saying that this is not the answer for disaster rebuilding on the scale required to deal with the destruction caused by Hurricane Ike. State and local officials should not continue pretending that it is.

Relying on the COGs to carry out the \$1.3 billion Hurricane Ike/Dolly recovery program, as the State is now proposing, will be a disaster for Texans who need their homes repaired immediately.

Let's turn from COG administration to examine local government's effectiveness in administering these types of programs. A story in the December 25, 2008 Houston Chronicle (<http://www.chron.com/disp/story.mpl/metropolitan/6181974.html>) offers an especially important warning of potential problems with the past administration of these type of funds by the local government positioned to receive the largest share of Hurricane Ike rebuilding dollars.

Reporter Mike Snyder tells the story of Marsha Farmer, a Houston woman who was disabled. Her home was damaged in flooding by Tropical Storm Allison in June 2001. She applied for help making repairs from a program administered by the City of Houston through a third party contractor. After waiting seventeen months for the repairs to begin she finally received paperwork providing a cost estimate for the repairs

the City of Houston had committed to pay for. What she saw in those papers shocked her.

Quoting Snyder's story...

The estimate called for enough plywood and shingles to replace her roof twice. She thought this must be a typo, but as she read further, she saw more errors and prices that seemed unreasonably high. Her background as a bookkeeper, along with her childhood work helping her father build barns and stores, prepared her to notice discrepancies others might have missed.

Farmer began asking questions. The answers helped trigger an investigation of overpayments and shoddy work in the federally funded home repair program, and ultimately of the city's other housing services. The case continues to affect local taxpayers to this day.

Documents Farmer obtained through open records laws and a lawsuit showed that contractors in the home repair program routinely billed the city for excessive materials and for work that wasn't performed or was done poorly. The documents raise new questions about whether those responsible have been held accountable.

The City Council agreed in November to repay \$15.5 million in misspent funds to the U.S. Department of Housing and Urban Development. The city also agreed to reinspect and fix previously repaired houses at an estimated cost of \$6.1 million in local funds. ...

Two months after Farmer filed her lawsuit, HUD shut down Houston's home repair program. The agency cited evidence of poor workmanship and "huge differences between the estimates of materials needed and the actual units of materials applied" — the same problem Farmer had noticed in the estimate for her house.

HUD allowed the program to resume the following year, subject to the city's agreement to reinspect and, where necessary, repair 2,214 previously repaired houses by July 31, 2010. Farmer's review of 530 reinspection reports — about one-fourth of the total to be performed — identified \$717,000 in overcharges.

Eight and one half years after the flood her house still hasn't been fixed. The last week of 2008 she was found dead in her mold-infested home.

The story offers an important insight into the validity of the recent claims by local officials regarding their ability to better administer a program to help survivors of Hurricane Ike rebuild their homes. Before the State of Texas and HUD hand over the \$1.3 billion in federal disaster assistance to local governments and COGs to administer, Governor Perry and incoming HUD Secretary Shaun Donovan should consider the experience of Marsha Farmer.

2 Make housing rebuilding the top priority in the allocation of disaster rebuilding funds.

Texas should allocate the limited disaster funds so that they take care of the housing needs of Hurricane Ike/Dolly survivors as the State's top priority and relegate funding for government programs to a lower priority. Families' recovery should come first and government second.

If even after making housing the State's top funding priority, not enough money is available to meet all of the housing needs, which we believe will prove to be the case, Texas should further prioritize funds to help those who have no other resources to get back into housing - in other words, the State should prioritize the poor who have no insurance and cannot obtain a loan to rebuild.

State officials must understand that the \$1.3 billion in available CDBG funds will not be enough to fund the complete restoration of the hurricane damages. In fact, we estimate that the funds will be insufficient to even fund the full restoration of the housing stock of low- and moderate income Texans.

As we discuss in recommendations three and four, data is not available to produce accurate housing damage estimates. This requires access to FEMA data that it has thus far refused to release. Specifically, FEMA evaluations of individual damage claims by households at different income levels is required to quantify exactly how much of the housing damage is not covered by insurance. Short of the disclosure of this information for planning purposes there is no way for the State of Texas to accurately allocate funds for housing programs.

The lack of this data forces us to engage in a more difficult and imprecise method of estimating the funds needed for housing.

TDHCA obtained a report of applications for hurricane related housing damages for Galveston County as of November 5. Since applications for FEMA assistance are still being taken, the cut off date of November 5 clearly understates the number of claims and the amount of damages but this is the latest report we have access to.

That FEMA report indicates FEMA damage assessments put the number of destroyed owner-occupied houses in Galveston County at 1,153 with 879 being owned by households with incomes less than 80 percent of the area median family income (MFI). These families are those classified by HUD as having low to moderate incomes.

The report also indicates a total of 775 renter housing units were destroyed with 725 of those being occupied by households with incomes of less than 80% MFI.

The combined unmet housing repair needs in Galveston County according to the FEMA report total \$421,104,822.

As we have noted elsewhere we believe FEMA actually underestimates actual housing repair needs for the following reasons:

- 1) The FEMA report only covers claims through November 5;
- 2) FEMA damage estimates do not reflect additional costs of housing repairs that must be incurred when using CDBG funds, including lead paint and asbestos abatement and the cost of bringing an older house to full code compliance and not simply repairing merely the hurricane related damages; and
- 3) Costs of bringing rental housing back on line are not fully reflected in the FEMA estimates.

We know that the cost of rebuilding the typical owner occupied home with CDBG funds damaged by Hurricane Rita cost the State \$75,000. While there is little experience with housing rehabilitation with homes damaged by Hurricane Rita, preliminary data indicates an average rehabilitation cost of \$50,000 would likely be conservative.

Applying these average cost estimates to the number of housing units FEMA certified as destroyed and damaged as of November 5 we can arrive at the following conservative estimates of housing rebuilding needs for homes destroyed in Galveston County.

Owner-occupied homes destroyed = 1,153 x \$75,000 (per house rebuild) = \$86,475,000
Renter-occupied housing destroyed = 775 x \$75,000 (per house rebuild) = \$58,125,000

The combined cost of rebuilding destroyed owner and renter occupied housing in Galveston County is \$144,600,000.

It is more difficult to estimate housing repair needs but a conservative estimate is that there are four housing units that will need to be repaired for each house that was destroyed. This is admittedly a guess as to the number of homes that need to be repaired. Based on this we estimate the housing repair needs in Galveston County to be as follows:

Owner occupied homes to repair = 4,612 x \$50,000 (per house repair) = \$230,600,000
Renter occupied units to be repaired = 3,100 x \$50,000 (per house rebuild) = \$155,000,000

The combined cost of repairing owner and renter occupied housing in Galveston County we estimate to be \$385,600,000. The aggregate cost of rebuilding and repairing housing units in Galveston County is an estimated \$530,200,000. Based on what we know from applications received from victims of Hurricane Rita we can assume that households with income below 80 percent of the area median family income had no insurance and thus will not be able to rebuild or repair without government assistance. Of the owner occupants whose homes were destroyed, 83 percent have incomes below 80 percent of median according to the FEMA November 5 report. Therefore, assuming the state restricts benefits to households with income of 80 percent of the median or less, we

need to discount the amount of money for rebuilding and repairs.

\$144,600,000 owner occupied rebuilding + \$230,600,000 owner occupied repairs = \$375,200,000
\$375,200,000 x .83 (percent < 80% of median) = \$311,416,000 CDBG needed for owner occupied housing in Galveston County.

Estimating the extent to which rental housing was insured and the extent to which rental housing owners will elect to rebuild is virtually impossible. All we know is that significant financial resources will be required to bring back the affordable rental housing stock. We determined that \$213,125,000 was needed to restore the destroyed and damaged rental housing stock. To pick an arbitrary figure let's assume that very conservatively half of these costs would need to be provided through CDBG funds to bring back the rental housing in Galveston County. This would be \$135,625,000.

Therefore, by our rough estimate, \$447,041,000 of CDBG funds will be required for repair and rebuilding housing for households earning less than 80 percent of the median family income (MFI). If households above 80 percent of MFI are to be assisted additional funds would be required.

\$447 million for housing in Galveston County for low- and moderate-income households is 55 percent of the \$814 million ORCA is proposing to allocate to the Houston-Galveston Area COG to serve all the housing and non-housing disaster rebuilding in the COG's 13 county area. This includes other hard hit counties like Harris, Chambers and Brazoria that are going to have huge additional low- and moderate-income housing needs.

It is likely that even if all of the CDBG funds are allocated for housing not all of the low- and moderate-income households could be assisted.

3 Provide uniform state program and benefit levels in post-disaster housing rebuilding programs.

The current draft Texas disaster recovery plan is based on bad data and faulty assumptions.

Let's look at the ORCA plan's proposed formula for the division of the CDBG disaster recovery funds into eleven separate COG disaster recovery funds.

The ORCA plan states...

"Allocations were provided to 11 COGs that received damage under FEMA -1780 or FEMA 1791. Allocations were calculated using preliminary FEMA damage assessments as of December 1, 2008 for both individual assistance and public assistance. Adjustments may be made to future Percent of Total Damage estimates as additional funds are allocated due to the preliminary nature of the available data."

In other words, to divide the \$1.3 billion in CDBG funds between the eleven COGs ORCA simply took the requests FEMA received from hurricane survivors for individual assistance and from local governments for public assistance received by December 1 and divided the available money based on those applications, holding back five percent of the money for administration and a whopping fifteen percent for “planning.”

The ORCA allocation plan is deeply flawed for at least eight reasons:

1) The data used in the ORCA plan allocation formula is bad. The first problem is with the December 1 cutoff date for the data used in determining regional funding levels. Applications for assistance are still being received and thus needs presented after December 1 are not included for allocation purposes.

2) The use of FEMA assessments greatly understates the housing rebuilding needs of low-income households. There is ample evidence that FEMA assessments have systemically discounted or ignored the damage to homes of the poor. For proof consider the stories of low-income families whose homes Hurricane Dolly damaged and who were denied assistance based on FEMA’s damage assessments. FEMA assessors systemically and illegally denied assistance to low-income households whose homes were in deteriorated condition prior to the hurricanes. (See <http://texashousers.net/2008/11/20/eleven-texas-families-stories-document-femas-illegal-and-systemic-discrimination-against-the-poor/>). This systemic bias in the FEMA assessment process is the subject of a lawsuit filed in South Texas. By relying on the FEMA assessments to make geographic allocations for funds the ORCA plan denies the most needy hurricane survivors access to their share of disaster assistance.

3) The third problem is with the nature of the requests for public assistance. There are simply no plans or cost estimates for many of the long-term public infrastructure rebuilding activities that need to take place. Current public assistance requests to FEMA are for immediate disaster recovery rather than long-term rebuilding needs. In fact, it would be inappropriate to submit most long-term rebuilding requests to FEMA since that agency focuses on short-term recovery. The funds the ORCA plan proposes to allocate are intended for long-term rebuilding assistance yet these projects are not generally captured in the current requests. Therefore, the allocation formula fails to set aside funds fairly to meet these critical long-term rebuilding projects because it bases the allocation of long-term rebuilding funds on requests for short-term emergency recovery funds.

4) FEMA has not provided meaningful data from the individual damage assessments needed to make a funding allocation. Dr. Elizabeth Mueller (University of Texas at Austin, School of Community and Regional Planning) and I have been working for many weeks with both TDHCA and FEMA to develop estimates of housing needs of families in different income categories based on FEMA certification of household damages. The fact

is that the data currently available is incomplete and unreliable. The data released by FEMA thus far does not provide the level of detail to determine whether applicants for individual assistance qualify for CDBG housing assistance. The available data permits no conclusion about the amount of damage incurred by families that fall within the CDBG eligibility limits. Thus, it does not provide information that would allow any assessment of amount of CDBG housing rebuilding funds a particular geographic region requires. There is simply no way the available FEMA data can be used to develop a fair regional allocation formula. The ORCA plan's reliance on this data makes the allocation invalid.

5) There is no indication in the plan that ORCA controlled for the incomes of the homeowners. In the Hurricane Rita rebuilding program eligibility was restricted to families who were low or moderate income (defined as earning less than 80 percent of the area median income adjusted for family size). Yet the ORCA allocation appears to include all damages to houses regardless of family income. This will greatly skew the allocation of funds to higher income regions by including damages to ineligible households in the ORCA allocation equation.

6) The sixth problem is that it appears from the plan's narrative that ORCA has included both reimbursed and non-reimbursed damages in the allocation formula. CDBG funds may only be used to reimburse for damage that is not reimbursed to the homeowner by insurance. This completely invalidates the ORCA allocation formula.

7) The seventh problem is that the ORCA plan combines FEMA individual damage estimates with public infrastructure damage estimates giving equal weight to both. Thus, the regional formula allocates funds equally to public infrastructure damages and housing damages. Yet every previous disaster recovery program, in Texas and in every other state, has prioritized the use of funds to repair the homes of hurricane survivors. The ORCA allocation plan fails to provide fund allocation on this basis.

8) The eighth problem is the absurdly high level of funding (\$197,248,528.95) set aside for "planning". The ORCA plan does not tell us who will undertake this planning, what will be planned for, or how the planning will relate to the allocation of funds. Indeed, the planning seems to have no impact on where the money goes since that decision will already be made based on the flawed data I have discussed above. Presumably this planning will also not inform or direct the program design for the COGs' expenditure of "their" money since the ORCA plan implies that these "planning" activities will be undertaken during and after the period in which the COGs define and undertake the various public infrastructure, economic development and housing programs. In other words, this is a backwards process. The planning will take place after the decisions are already made as to how to spend the money.

As we have seen the draft plan allocates funds geographically in an unfair manner that will result in many families being denied assistance and it institutionalizes an inequitable funding distribution system.

4 Insist that FEMA release data to the State regarding individual housing damage so that the State can have the best data to make funding allocations.

FEMA collects data from applicants for housing assistance and sends inspectors to consider the claim based on the condition of the house. Unfortunately, the best and most detailed data that FEMA collects is not available for Texas to use in determining the amount of housing rehabilitation and reconstruction funding needed in each region of the state. Citing privacy reasons FEMA has refused to share this essential planning data.

FEMA has not provided meaningful data from the individual damage assessments needed to make a funding allocation. Dr. Elizabeth Mueller (University of Texas at Austin, School of Community and Regional Planning) and I have been working for many weeks to develop estimates of housing needs of families in different income categories based on FEMA certification of household damages. The fact is that the data currently available is incomplete and unreliable. The data released by FEMA thus far does not provide the level of detail to determine whether applicants for individual assistance qualify for CDBG housing assistance. The available data permits no conclusion about the amount of damage incurred by families that fall within the CDBG eligibility limits. Thus, it does not provide information that would allow an accurate assessment of amount of CDBG housing rebuilding funds a particular geographic region requires. There is simply no way the available FEMA data can be used to develop a fair regional allocation formula. The ORCA plan's reliance on this data makes the allocation invalid.

5 Establish a simple structure of five housing assistance programs to rebuild homes.

Before discussing the program details it is important to consider the principles that should guide the design of the housing programs.

1) Allocate the limited disaster funds so that they take care of the housing needs of Hurricane Ike/Dolly survivors as the State's top priority and relegate funding for government programs to a lower priority. Families' recovery should come first and government second.

2) Treat all of the Texas hurricane survivors fairly and equitably by affording them access to the same level of benefits and the same programs regardless of the Texas city or county where they live.

3) If, even after making housing the State's top funding priority, not enough money is available to meet all of the housing needs, Texas should further prioritize funds to help those who have no other resources to get back into housing - in other words, prioritize the poor who have no insurance and cannot obtain a loan to rebuild.

4) Allocate sufficient funds to rebuild rental housing that is affordable at pre-hurricane rents. Texas must recognize that the huge losses of affordable rental housing will not be replaced without the provision of both loans and grants to public housing authorities and private landlords.

Unfortunately, the Hurricane Ike disaster plan proposed by the Texas Office of Rural Community Affairs (ORCA) inherently violates all of these principles by creating not a comprehensive statewide housing rebuilding program but several regional plans each shaped by the desires of local elected officials. There is no guarantee that the haphazard disaster recovery program proposed by the ORCA plan, with regional priorities set by local officials, will not siphon money away from critical housing needs to fund expensive discretionary public works improvements.

In addition to these guiding principles there are several special considerations based on the nature of the communities involved and the characteristics of the hurricane survivors that should be taken into account in designing the housing programs.

1) Deal with the housing needs of both homeowners and renters equitably.

Recognize that private and public affordable rental housing cannot be rebuilt without a source of equity to close the gap between affordable rents and the incomes of lower income renters. This means realistically estimating those rental housing needs and not simply providing the minimal funding levels for affordable rental housing prescribed under federal law.

2) Know how much to allocate for each of the rental and owner housing programs.

This requires access to FEMA data that it has thus far refused to release. Specifically, someone must compel FEMA to release the FEMA evaluations of individual damage claims for each city and county in a manner that protects the individual privacy of the applicants yet makes the data available for planning. This data is required to determine the amount of damages incurred by households at different income levels and to quantify exactly how much of those damages are not covered by insurance. Short of the disclosure of this information for planning purposes there is no way for the State of Texas to intelligently allocate funds for housing programs.

3) Serious efforts must be directed at overcoming the extreme levels of racial and economic housing segregation that exists in these communities. Simply rebuilding housing in place, and thus limiting low income and minority households to their existing neighborhoods, will reinforce existing segregated housing patterns and will be

an explicit failure to meet the requirement to “affirmatively further fair housing” that is imposed upon any governmental entity using CDBG funds.

4) Afford minority and other poor families this unique opportunity to break the physical bonds of poverty and move to where the neighborhoods are safer, the schools are better and jobs are more available. Choice of where to live must be built into the housing programs.

5) Use high standards for the design and construction quality of the houses built under the program to improve the quality of the neighborhoods in which they are built. This massive reconstruction program needs to create well designed homes that can enhance the neighborhood. The program should ensure that the design of the houses complement the existing houses in the neighborhood. The repetition of the same design (“cookie cutter” style houses) should be avoided.

6) Design into the housing programs strategies to maximize the long-term affordability of the home. Low-income families face challenges in their ability to maintain the home, the cost of insuring the house, the tax burden imposed by a new home and the dangers of predatory home equity lenders. The program design needs to incorporate ways to reduce the costs to renters and homeowners through energy savings, enhance durability and minimize costs of maintaining the houses through green building technologies and to establish Individual Development Savings Accounts (IDAs) for low income families.

In the interest of not taxing the reader unnecessarily I am going to provide only a basic outline of the changes and new programs. There are a lot of important details that I will leave out here that will need to be discussed and incorporated to make the programs work correctly.

Using the guiding principles and bearing in mind the additional considerations I have just outlined, I propose the survivors of Hurricane Ike be assisted through five unique housing programs.

Program #1: Emergency weatherproofing program. This program would undertake roof, door, window and siding repairs as necessary to prevent moisture from entering the house. The purpose is to stabilize the home so that additional damages do not occur before comprehensive rehabilitation can be undertaken either through insurance, private funds or a government housing repair program. The maximum amount of funds expended on the house would be limited to what is necessary to provide these limited weatherproofing repairs and in all cases would be limited to a maximum of \$10,000. The program should be administered by the Texas Department of Housing and Community Affairs and should be provided as a grant to the homeowner.

Program #2: Comprehensive rehabilitation or reconstruction. This program would provide comprehensive rehabilitation or replacement of an owner-occupied home. The program should operate under the guidelines of the existing program established by the Texas Department of Housing and Community Affairs for rehabilitation of homes damaged by Hurricane Rita, with the exception that the maximum expenditure under the program should be increased from the existing \$70,000 to \$80,000 to build a higher quality, more energy efficient home. The program should be provided as a grant to homeowners with incomes below 80% of the area median family income adjusted for family size.

In addition to the guidelines imposed under the existing Hurricane Rita program the program would also incorporate the following:

- Households would have the option to elect to receive a housing purchase voucher in lieu of the repair or reconstruction of their home in its existing location. The purpose of this would be to allow low-income families to relocate to a higher-quality neighborhood or in an area of greater job opportunities.
- All housing rehabilitated or reconstructed under the program should incorporate green building techniques and achieve high energy efficiency ratings.
- Households will be required to complete homeowner training that provides information to the homeowner regarding the maintenance of their home and the financial skills necessary to budget to maintain the structure.
- Households will be required to maintain homeowners insurance and flood insurance (if needed). The Legislature should develop a special line of homeowners insurance affordable for lower income families living in hurricane hazard areas.
- A pilot test of an energy efficiency program will be undertaken involving at least 20% of the homes rehabilitated and reconstructed. These homes will be equipped with a range of energy saving devices and energy generating technologies. Long-term monitoring of the technical and practical feasibility of various energy strategies along with the economic effect on the households will be carried out through a contract between the Texas Department of Housing and Community Affairs and a state institution of higher education to be selected by the Department through a competitive process.
- A pilot test of a new housing technology demonstration program will be undertaken involving at least 5% of the homes reconstructed. The pilot will involve a design/build program involving competitively selected teams of architects and contractors. The goal of the program will be to test models for

rapidly deployable, modest cost single-family homes to be used in future disaster housing rebuilding programs. The model for this program is the Department's existing Texas Grow Home project.

Program #3: Faith-based/nonprofit housing rehabilitation program. This program would provide grants of building materials to participating faith-based organizations that agreed to comprehensively rehabilitate homes. The program would also provide reimbursement for selected professional construction services such as electrical and plumbing. The materials and professional reimbursement would be provided to the faith-based/nonprofit organizations in the form of a grant so long as the home being rehabilitated was occupied by a homeowner with an income below 80% of the area median family income adjusted for family size.

Program #4: Public housing rehabilitation and reconstruction program. This program would provide grants and low-interest loans and priority access to low income housing tax credits to public housing authorities to rehabilitate or to reconstruct (either on-site or off-site) public housing damaged by the hurricane. The program would require the housing authority to replace public housing units on a one for one basis. Program goals would be established so that the developments rehabilitated or constructed through the program met the desegregation and economic integration goals established under the HUD Hope VI housing program. The Texas Department of Housing and Community Affairs would administer the program.

Program #5: Affordable rental housing partnership program. This program would provide grants and low-interest loans and priority access to low income housing tax credits to nonprofit and for-profit developers of affordable rental housing to offset losses of affordable rental housing in Southeast Texas communities. The Texas Department of Housing and Community Affairs would administer the program.

Priority would be given to applicants who propose to construct one and two family rental housing and mixed income, multifamily housing within the areas of town with poverty rates below those of the community as a whole and within school attendance zones of elementary schools rated as exemplary by the Texas Department of Education. Funds for one and two family rental housing construction or rehabilitation would be restricted to housing units affordable to unsubsidized tenants earning not more than 60 percent of the area median family income adjusted for family size. Grants for multifamily development would be provided as necessary to make not less than 10 percent and not more than 20 percent of the rental housing affordable to families with incomes below 30 percent of the area median adjusted for family size. Additional priority would be given to developments, which in addition to achieving the extremely low income targeting also sought to provide at least 25 percent of the rental units for occupancy, by households earning above 80 percent of the area median family income.

Participating owners would be required to make the houses available for a minimum of thirty years to eligible renter households.

6 Build on existing investments in housing programs to ensure funds are available as quickly and efficiently as possible.

In developing a plan to help Texas survivors of Hurricanes Ike and Dolly rebuild their homes the starting point should be the existing Hurricane Rita housing program operated by the Texas Department of Housing and Community Affairs (TDHCA). The basic elements of a workable plan are present in the TDHCA Hurricane Rita housing program with its comprehensive, statewide approach.

The plan has some problems, most notably the long time it took to get the program up and running. But now that it is at last in place and building and repairing homes, it represents Texas' best opportunity to get the housing damaged and destroyed by Hurricanes Ike and Dolly repaired and rebuilt.

There are some changes I believe should be made and there are some additional housing activities that should be included in the Ike/Dolly housing program.

While Texas faces huge problems with its efforts to help low income people left homeless by Hurricane Rita, the State has, through trial and error, crafted a much more responsible approach than Louisiana, Mississippi and Alabama.

All of the federal funds available to Texas are earmarked for critical government infrastructure and for housing. (Whether the government infrastructure the Texas program has funded is truly "critical" is an issue we doubt but will not explore here). None of the Texas funding is being siphoned away for private port facilities, as has been the case in Mississippi. All of the housing funds will be spent to assist families below 80 percent of median family income and the bulk of funds will be spent to house families at far lower income levels. There is no two-tier homeowner assistance program, one for the rich and middle class and the other for the poor, as in Mississippi. Advocates from the other states all felt that there were significant civil rights and fair housing violations occurring as funds were directed unfairly to white families. That has, so far, not happened in Texas.

Since the first days following the hurricanes the Texas Low Income Housing Information Service has been working with TDHCA to ensure that those with the greatest needs, especially the poor and the elderly, get the help that they need. While the State did not immediately embrace all of our recommendations, after the disappointing experience of an initial round of housing assistance administered through

the COGs that did not go too well, the State has largely come around to embrace the principles we articulated from the beginning.

This is not to say that Texas adopted precisely the program we first recommended. Initially we advocated a direct payment program to people whose homes were destroyed. The State opted eventually for a program through which TDHCA would directly oversee the rehabilitation or reconstruction of homes — acting as the “middle man” between homeowners and contractors. The State’s approach in many respects is superior to our initial idea. Given the difficulty of hiring contractors, ensuring the quality of their work and holding them accountable, it is better to have TDHCA overseeing the contracting rather than to place the responsibility on elderly or low-income homeowners.

Yet, in other regards the State’s approach presents other challenges that must still be resolved. Given the extremely low levels of public assistance available to rebuild houses (\$65,000-\$75,000 maximum) how does the State produce houses of sufficiently high quality and avoid a sterile and homogeneous appearance? How does the State logistically manage 4,000 clients, each with unique needs? Despite these challenges we commend the State for being willing to take them on.

7 Put in place effective consumer protections for homeowners dealing with contractors to rebuild their homes.

Houston Mayor Bill White proposed an ordinance that would have required all contractors doing work in Houston to register with the city. The proposal would have also required contractors to obtain at least \$1 million in property damage and liability insurance coverage. This would have been the thinnest of consumer protections. But even this proved too much for those who have insisted that contractors should be able to operate free of any meaningful regulation and consumer protection laws.

The Houston Chronicle characterized Mayor White’s withdrawal of the ordinance as “a rare defeat for White, who pushed for the measure in the wake of Hurricane Ike as a protection for consumers against poor or fraudulent roofing companies.”

“White appeared visibly frustrated last week as most council members spoke against the measure, saying repeatedly the city needed to do something to give homeowners recourse in case they were defrauded,” the Chronicle reported.

The Houston action comes in the wake of recommendations of the Texas Sunset Advisory Commission to abolish the Texas Residential Construction Commission (TRCC).

The TRCC was pushed into being in 2003 by some in the Texas home building industry who wanted to hinder efforts by homeowners from taking builders to court over shoddy building. Essentially all the TRCC does, once a contractor causes a problem, is mandate the homeowner submit to a long and drawn out state review, inspection and mediation process. The agency is designed to discourage homeowners from taking contractors to court to enforce their contract.

The upshot of all this is Texas homeowners are on their own with no meaningful state or local protections to help them deal with contractors who don't do what they promise. The absence of consumer protection is a special problem for the poor and the elderly. The poor and the elderly often lack skills and resources to attract competing contractors to bid on their homes in the wake of a disaster, evaluate contractor's credentials and references and, when necessary, fight with contractors to get the repairs done right.

Texas needs a state law defining licensing and insurance requirements for all contractors. Texas also needs a true regulatory agency with a clear mission of protecting the public; an agency designed to ensure that only qualified persons will be licensed. Instead of being a hurdle for consumers to overcome after a crooked contractor has victimized them, a new state agency needs to prevent unscrupulous contractors from doing business in Texas.

The building and construction lobby has blocked meaningful homeowner protections at the state level and has left homeowners worse than nothing in the form of the Texas Residential Construction Commission. Now that same lobby has demonstrated its power over the Houston City Council by blocking even Mayor White's weak proposed consumer protections.

The hopelessly flawed Texas Residential Construction Commission (TRCC) has been recommended for abolition by the Texas Sunset Commission staff. The Sunset staff report on the TRCC concludes, "Current regulation of the residential construction industry is fundamentally flawed and does more harm than good."

I reluctantly concur.

Currently, the average time to process state inspection requests, including the appeal process is 147 days although, outstanding cases have been open for as long as 20 months.

The Sunset Commission staff noted that a mere 12 percent of the cases the state reviewed of alleged defects produced a "satisfactory offer or repair or compensation over the life of the program." The other 88 percent of the cases ended up in court anyway, after the considerable delay of on average six months imposed by the TRCC's ineffective process.

It is outrageous to put homeowners living with serious problems through these extra steps and slow them down before they can even begin the lengthy legal process to get the problems addressed.

The Texas Sunset Commission staff reported...

The Texas Residential Construction Commission was never meant to be a true regulatory agency with a clear mission of protecting the public. It has elements of a regulatory agency in its registration of home builders, but this program is not designed to ensure that only qualified persons can enter the field – the way true regulatory agencies work – and so does not work to prevent problems from occurring.

The problem with the TRCC is not so much in implementation but in the design of the regulatory process by the Texas Legislature. As an advocate for low-income home owners I would like to be able to support a program in which the state helps people resolve problems with their builder without having to incur the cost of going to court. But the TRCC has not produced results.

The program is little more than a mandatory arbitration program that prevents consumers from pursuing their legal rights in court, coupled with a largely meaningless registration program for homebuilders. The Sunset staff's report notes...

As a registration program, the regulation of builders does not require them to satisfy basic capability – as is typical for other trades in the residential construction industry, such as electricians and plumbers – or criteria for financial soundness. By not ensuring the competence and financial responsibility of builders in Texas, the regulations do not prevent unqualified persons from entering the field and thus are not designed to prevent problems from occurring.

In testimony presented to a Senate Committee earlier this year we were critical of the newly minted authority the TRCC has to enforce building codes in rural counties where building codes do not now exist. It is not a question of whether such codes should exist, but how they can be effectively enforced. For a number of years we have supported the thus far unsuccessful efforts by Senator Eddie Lucio to grant counties voluntary ordinance making authority and the power to adopt and enforce building standards.

The Legislature unwisely gave the TRCC the authority to establish a County Inspections Program. The Sunset Commission staff raises the same objections to this program that we have voiced.

For example, the agency does not have the resources to actively audit construction projects in unincorporated areas to ensure these projects are inspected. Also, the program will require builders to hire inspectors directly, without agency oversight of this process or assurance that builders and inspectors do not have a relationship that poses a threat to the quality of inspections performed. This program, although also well intentioned, has the potential to provide false security to those purchasing homes or completing remodeling projects in rural areas lacking building code oversight.

The right way to provide security to homebuyers in these parts of Texas is to allow for local regulation and government inspection of homebuilder compliance with building standards - the same process that has served urban residents well for many years.

But we must go beyond eliminating the TRCC to provide some real consumer protections. Here are some ideas to amend current policies requiring ordinary citizens to find and hire their own contractors:

Create a regulatory system designed to ensure construction businesses provide fair and equitable services. Design an easy-to-use system of reporting potentially fraudulent activity and implement a system of responding to these claims.

Homeowners have no bargaining power and contractors have little incentive to make bids on small jobs or price their contracts according to their actual costs. Contractors can very easily overcharge clients and there is a severe lack of accountability in terms of discriminatory practices. To date, the Louisiana attorney general's office has received more than 2,000 complaints related to contractor fraud. The horror stories of contractors ripping off dozens of helpless disaster victims and families getting scammed out of thousands of dollars are in fact a reality. Many disaster victims have had their life savings sucked away by ruthless contractors who have exploited people's vulnerability.

Provide homeowners with information and education on selecting contractors. Offer lists of approved construction companies who have passed certain screening processes and who meet certain base service standards.

Eliminating contractors who do not meet a minimum standard will save homeowners money, time, and frustration. It is important for this information database to be easily accessible to low-income homeowners.

Create guidelines and recommendations for homeowners when selecting a contractor.

Many of the most vulnerable victims of a disaster have absolutely no resources or experience in order to be able to hire a contractor. Requiring an elderly or disabled victim to undertake the technical task of soliciting bids for repairs in order to get FEMA aid is essentially the same as telling these victims that they are not eligible for aid at all; they simply do not have the ability to undertake such an arduous task.

Provide especially vulnerable homeowners with extra support through a case management system, which may operate through a state program.

Homeowners with no previous experience or expertise cannot be expected to collect bids and keep track of all of the necessary documentation to repair their homes, and some homeowners may need additional assistance from the state in way of a program

specifically to help homeowners find and use contractors. The extreme vulnerability of a large segment of the population and the record of past exploitation indicate that government needs to be more actively involved in the process of rebuilding of homes in the wake of a disaster.

8 Design protections into loans, deeds and covenants associated with state funded housing programs to protect low-income consumers from losing their homes.

Heed the lessons from the HUD 235 program

We should have an overarching concern with the quality, suitability, and design of the replacement housing units. It is critical that we do not repeat the mistakes of previous HUD programs that produced large quantities of marginal quality single-family housing units in close proximity to one another that quickly deteriorated and lost value both as individual housing units and as an entire community. We should learn from the mistakes of the HUD Section 235 Program that produced these unfortunate results.

Retrospective studies of the HUD 235 Program determined that the critical failures were the production of houses using marginal to low quality construction techniques, fixtures and finishes, coupled with the failure to adequately prepare the low-income homebuyers for their maintenance responsibilities.

Emphasize quality and suitability

I am concerned about the size, in terms of square footage of the houses TDHCA is building under the Hurricane Rita home rebuilding program. While I believe that homes of this size are appropriate for single persons and the elderly couples I do not believe it is appropriate to provide a house as small as 800 square feet to a three to four person household.

We should also remain aware of the social and economic forces that often require low-income families to occasionally take other low-income relatives into the house. Often times the new houses built under TDHCA's program will be replacing an older house of a substantially larger size. The large existing houses could easily accommodate the temporary or semi permanent housing of relatives and adult children as economic circumstances required. The replacement houses will become severely overcrowded in these circumstances. I recommend that the minimum square footage of the houses be increased.

I also urge that much more specificity be provided regarding the quality of materials and finishes included in the specifications within the RFP TDHCA has released to

homebuilders who want to bid to build the new houses. As it is written, the RFP is singularly devoid of most specifications. In my opinion, this will result in the bidders offering inferior materials that will not stand up to the type of wear and tear to which the houses will be subject.

It has long been understood that in the provision of subsidized housing special consideration must be given to the incorporation of extremely durable materials and fixtures in order to minimize accelerated deterioration of the housing. The frequent presence of large numbers of small children, coupled with a lack of financial resources for repairs and the absence of knowledge and experience regarding home maintenance requirements means that houses occupied by lower income families are often subject to more severe wear and tear than typical homes. This was another lesson learned through the HUD Section 235 Program.

In visiting a number of people who are now applicants to receive replacement homes I have noted that some of them had rehabilitation performed on their homes under HUD funded programs in previous years. While the damages from Hurricane Rita are the main reason for the current need for reconstruction I have seen several cases in which the repairs provided through HUD rehabilitation programs have not held up well and are contributing today to the substandard conditions in the homes. It is of critical importance that we not repeat those mistakes by using inferior materials and finishes in this round of repairs.

The many families with extremely low incomes who will be receiving houses under this program will simply not have the financial resources necessary to replace appliances which wear out prematurely or to repair low quality plumbing fixtures that cannot stand up to reasonable use.

Good design is important

The homes that will be replaced under the program are often located in older historical neighborhoods in which the homes that will be torn down have contributed to the architectural character of the entire community. If the program is not careful it will introduce into these neighborhoods houses that are incompatible. Placing poorly designed, suburban style, low end, tract houses into these neighborhoods will depress property values of the surrounding houses and accelerate neighborhood deterioration.

Aside from this negative effect upon the entire neighborhood there is a risk of stigmatizing the residents of the rebuilt house if it stands out from the surrounding structures as an incompatible housing type. We must be cognizant of the fact that the program will be rebuilding a very large number of homes at a relatively high level of concentration within some urban neighborhoods in Southeast Texas. If these homes all have a similar appearance that is easily distinguished from that of surrounding houses then the occupants are going to be easily identified by the public as recipients of a

government housing subsidy. The negative public reactions to public housing residents and to Katrina evacuees are not something that we should consciously direct against these recipients.

Home buyer education should be mandatory

A financial literacy and homeowner training program should be established and all of the persons assisted with home rebuilding or major repairs should be required to successfully complete the program.

Immediately upon the completion of the house each homeowner will have an asset of considerable value. Homeownership is a challenge for any family, but especially for lower-income families. They need to be educated about the need to budget sufficient funds for long-term maintenance of their homes, to budget for the immediate increase in property taxes they will be subject to. Education also needs to be provided regarding the perils of subprime home equity loans.

Simple and basic information regarding the importance of home maintenance needs to be part of the curriculum. The need to inspect for water infiltration and various forms of deterioration and to immediately address these problems must be made clear to the homeowners.

Also, the homeowners need to be educated regarding the provisions of the homeowner's warranty and told what is covered and what is not and how to file a claim.

⁹ Establish a program to provide emergency repairs in order to minimize additional costs occasioned by further weather damage.

They are called blue roofs.

The roofs are blue because FEMA pays contractors to stretch blue plastic tarps over the damaged roofs. No blue roof usually means that the roof has been repaired and most likely the house is livable.

So if six months from now you can drive through Harris, Galveston and Orange Counties and not see any blue tarps then the housing effort has been a record success. If you drive through a year after the hurricane and still see the tarps that's pretty bad. If three years after the hurricane you still see the blue tarps (which is the case in Port Arthur today, three years after Hurricane Rita) then the rebuilding effort is seriously flawed.

Roof damage means a house is subject to additional water damage and especially vulnerable to mold over the course of the months during which rains occur while the house is waiting for complete repairs.

The experience in Port Arthur was that houses, which suffered initial damages of only a few thousand dollars, are now requiring demolition and reconstruction because of subsequent water damage due to the failure of the FEMA tarps to hold up for three years.

This time around we need to do more than stretch the blue tarps and wait for years for general repairs to begin.

First, we need to undertake complete roof repairs very quickly for low income, low-income elderly and low income disabled households who do not have insurance. The tarps will simply not hold. So we need to get new roofs on houses even if the houses need additional repairs to be habitable. Securing the structures from further damages must be the priority because it will save money for both the homeowner and the taxpayers when the time comes for the complete repairs.

Second, we have to get the comprehensive housing rehabilitation programs working as quickly as possible so the comprehensive rehabilitation can take place and families can move back in.

10 Maximize the contributions of faith-based groups to rebuild and repair houses.

Due to their flexibility and agility, non-profit and particularly faith-based organizations (FBOs) can assist in the repair and replacement of damaged housing, speeding survivors' return to their own homes or community. To date Habitat for Humanity has built nearly 1,300 homes in Louisiana, Mississippi, Alabama and Texas and local faith-based groups have repaired or replaced some 1,700 houses damaged by Hurricane Rita, while government programs, like Louisiana's Road Home, have lagged behind.

However, apparent from the recent Katrina and Rita Hurricanes was the lack of effective coordination between the public and nonprofit sector in providing housing disaster assistance to low-income households, creating waste and duplication of services. Joe Higgs, a former organizer with SETIO, a coalition of local congregations in East Texas, told of an FBO group that was finishing home repairs for a woman in Orange. When they came to do the final repairs, the woman told them that a government assessor had found \$110,000 worth of damage to the home (even after the repairs) and home would be demolished rebuilt.

The conflict arises over the different standards under which nonprofits and government programs operate. Nonprofits in East Texas focused on making the maximum number of houses safe, sanitary and secure. Since many of the homes damaged by Hurricane Rita were substandard, this meant that even after the repairs they would be habitable, but not meet stringent federal codes. Federal housing programs, often funded through CDBG funding, are required to rehabilitate to a much higher standard. As a result, many houses with extensive damage were condemned and put in the queue for rebuilding, even after repairs by nonprofits. The federal program would result in fewer but more high quality homes, while nonprofits could produce more housing, but at a lower standard. Further, in East Texas, there was no established way for nonprofits to communicate with government housing agencies. They used different databases and there was no established forum for collaborating.

Solutions for collaboration:

- Foster increased collaboration by either working through the Voluntary Agencies Active in Disaster (VOAD) which already have formal agreements with FEMA or create a Texas Housing Disaster Assistance Task Force composed of both nonprofit and government agencies to integrate their efforts into model housing recovery programs by establishing standards for participation and guidelines for providing services. The collaboration should include consideration of database accessibility to prevent duplication of services.
- The Model Housing Recovery Program should include a process for a quick initial housing assessment of every house damaged by the disaster to determine if the house is marked for moderate to extensive rehabilitation or rebuild.

These individual housing assessments should delineate the rehabilitation responsibilities of faith-based groups and state and federally funded programs. These assessments should be given directly to local faith-based groups. This will allow faith-based groups who in many cases are the first ones on the ground to have a strategic housing assistance plan that targets different types of assistance depending on the overall rehabilitation goal with a particular house. For example, a faith-based group could secure houses with tarps that are planned for more extensive rehabilitation work by a long-term recovery government funded program. This will prevent duplication of services and provide a speedier housing recovery process.

11 Provide for access to affordable homeowner's insurance for low-income homeowners.

Many people were shocked in the wake of Hurricane Rita that seventy percent of the homeowners (who were overwhelmingly low income) who lost their home or suffered major damage had no homeowners insurance to help them to rebuild.

This is not a question of carelessness or irresponsibility on the part of most low-income homeowners. It is a simple matter of economics. Homeowner's insurance costs in Texas Gulf Coast counties are so high low-income families just cannot afford it.

For example, I pulled insurance quotes off of the Texas Department of Insurance's (TDI) web site for the area of Port Arthur, Texas where many low-income families live. The Department of Insurance requires the top 25 insurer groups by national premium volume to submit their rates.

Insurance rates vary by whether a claim had been filed by the homeowner recently, the homeowner's credit rating, the value and construction type of the home. For purposes of the generating a quote off the TDI web site I assumed the homeowner had not filed a claim in five years, had an average credit rating (not the case for many low-income families but I wanted to see what the best case result would be). I also entered that the family lived in a 35-year-old wood frame house worth less than \$75,000.

Five of the top 25 insurers would not provide a quote for my hypothetical homeowner. The rates for the remaining 20 companies ranged from \$751 to \$4,120 per year. The median rate was \$1,348.

Add to that flood insurance on a \$75,000 house of an additional \$230 per year and the median cost to provide insurance would be \$1,578 per year.

That is in excess of two month's social security benefits received by many elderly widows living in these communities.

As long as insurance is beyond the reach of low-income families they will not buy it. And when the hurricanes come, they will be financially wiped out and will have nowhere to turn but government and charities to rebuild.

This is the economic reality that low-income families living in Gulf Coast counties face.

The most important thing is for the Texas Legislature to address the affordability of homeowner's insurance for lower-income and fixed income homeowners along the Gulf Coast. But here are several other steps that could be taken to provide some relief.

Create an itemizing system for outstanding claims to better allow regulators to track insurance companies' progress on the resolution of claims.

Insurers say that 99% of the 1.2 million 2005 hurricane claims have been settled, yet this may not mean that policyholders are satisfied with the settlements, nor does it mean that claims were distributed equitably. A system wherein insurance companies must report the amount of claims filed in a geographic area, the amount of claims paid in the geographic area, and the amount of claims denied in the geographic area would provide a level of accountability currently lacking. Many survivors would benefit from such a provision; providing transparent information would permit citizens to mobilize, as well as allow regulators to quickly identify practices creating gaps in coverage.

Create an outreach campaign for particularly vulnerable policyholders to inform them of their rights and provide resources to assist them with insurance negotiations.

Insurance companies estimate that 9 out of every 10 claimants will accept whatever settlement they are offered, assuming that survivors of disasters are too weary to challenge the offer or too hurried to begin reconstruction. Critics claim that this serves as incentive for insurers to deliberately lowball policyholders, leaving them to pay a fair price only to a portion of the challengers, not all of whom even turn to litigation.

Make legal representation available for low-income insurance claimants.

To help address inadequate discrepancies between damage and insurers' settlements, the Legal Services Corporation should fund and assign a sufficient number of attorneys to work with low-income insurance claimants in negotiating settlements.

Impose a moratorium on cancellations and non-renewals to allow for alternate insurance arrangements to be developed.

In the wake of a disaster, insurers may try to raise premiums to cover their costs, cancel or refuse to renew existing policies and refuse to write new policies in order to limit their exposure, and even fully exit a given market. A similar approach should be taken to that used by the state of Florida in the aftermath of Hurricane Andrew by imposing a cancellation and non-renewal moratorium.

12 Design housing programs in a manner that breaks down housing segregation and concentrations of poverty.

Displaced families receiving post-disaster assistance from the government should be given the choice to decide where to permanently settle.

The Texas Homeowner Assistance Program (HAP) for Hurricane Rita, administered by the Texas Department of Housing and Community Affairs (TDHCA), does not allow households whose home has been damaged by Rita to receive housing assistance funds and use them in a different city or state: they must rebuild or rehabilitate in their pre-disaster place of residence. This provision poses several limitations for low-income families that live in poverty-stricken, environmentally hazardous or segregated areas.

First, since the choice of relocation represents an opportunity to break poverty patterns, restricting such choice means disaster survivors that live in poverty-stricken areas are condemned to poverty consequences such as crime and violence, failing schools, poor health care access, few jobs, and unreliable public services. Displaced families should be given the opportunity to restart their lives elsewhere, moving to a place with better job opportunities, better schools and better public services. This choice is particularly important to displaced families that develop support systems in their adopted cities and states and may prefer to stay, particularly when there is no home or job to return to in their pre-disaster place of residence.

Second, the choice of relocation represents an opportunity to move away from environmentally hazardous areas. Not letting disasters survivors have the choice of where to relocate condemns them to stay in polluted and health-damaging zones. This issue is of particular relevance to the residents of Texas Gulf Coast communities with refining and chemical industries.

For example, Port Arthur residents face tremendous health risks because of the pollution produced by the refineries and chemical plants present in the area. Refineries produce significant amounts of toxic pollutants including benzene, toluene, ethyl benzene, and nickel compounds. Benzene is a known carcinogen; toluene is known to negatively affect the kidneys and nervous system; and many of the other pollutants are known to cause anemia and have a negative impact on brain function, organ development and reproduction. Many Southeast Texas Coastal residents are exposed to these and many other pollutants on a daily basis. Restricting the choice of where to relocate condemns them to live the negative health consequences associated with pollution.

Third, the choice of relocation represents an opportunity to move away from racially segregated areas. Restricting the choice does not only condemn disaster survivors to segregation but most importantly is in conflict with fair housing laws. When disasters

strike minority communities that are racially segregated, the government has an affirmative obligation under the Fair Housing Act to provide these families with an opportunity to relocate outside of racially segregated areas.

According to the Code of Federal Regulation 24 Part 100.70:

“It shall be unlawful, because of race, color, religion, sex, handicap, familial status, or national origin, to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development.”

Create a Resettlement Guidance Program

Displaced families should be given the choice of making an informed decision where to permanently settle. Texas should create a counseling program that guides households in making resettlement decisions and long-term integration strategies. The program should provide households with information about potential places (cities or states) of residences and their corresponding job opportunities, the environmental risks present (if any), the level of poverty and racial segregation. The program should also provide information on how to find jobs that match their skills, how to enroll children in schools, how to seek medical services and how to find support for child-care. The program should provide financial counseling services that include credit, bankruptcy education, and information on how to recover losses. In many cases, displaced families will choose to relocate in cities or states indirectly affected by the disaster or catastrophes. The program should coordinate assistance with service providers of adopted cities and states.

13 Design new houses and rehabilitation work to produce homes that are truly affordable to maintain and are highly energy efficient.

Utility costs are a large and growing problem for low-income families. We need to explore the cost effectiveness of building major energy efficiency technologies and solar generation into low income housing in Texas.

Traditionally in Texas we have built low-income housing with a focus on keeping the construction costs down. Super high efficiency appliances and heating and cooling systems have been deemed to be an unsupportable expense. Solar panels are almost never provided. Yet with the exploding cost of electricity we need to rethink our policy.

The fact is that rising energy costs have had such a devastating impact on low-income households that many cannot afford their home. HUD now tells us that the second

highest cause of homelessness, behind not being able to afford rent, is the inability of families to pay their utility bills.

While a typical middle-income household spends about 5 percent of its income on utilities, the typical low-income household spends about 20 percent. On average the typical retired elderly household spends over 25 percent on utilities.

Texas has some of the highest residential electric rates in the US. The national average is 10.4 cents per kilowatt hour while the average Texas residential rate is 12.96 cents. According to government statistics the average Texas monthly electric bill is a whopping \$149.29. Since deregulation took effect in Texas in 2002, the four power companies that control 70 percent of the Texas residential electricity market have increased their rates an average of 83.7 percent.

Here are some facts from recent studies of energy consumption among low-income households.

- Lower-income households are more likely to live in electrically heated homes and to use inefficient appliances.
- When confronted with an increase in energy costs, lower-income families tend to make “lifestyle cutbacks”, while higher-income families tend to invest in energy conservation measures.
- Renters are not likely to invest in energy efficiency and therefore curtailment is the only option to reduce consumption.
- 70 percent of low-income households report reducing spending on food because of high energy costs.
- 31 percent of low-income households have reduced spending on medicine because of increased energy prices.
- 29 percent of low-income homes report risking loss of home energy service due to skipped or partial energy bill payments.

For a brief period Texas took action to address the problems facing low-income ratepayers.

Most notably when the state deregulated and restructured electricity it set up a system benefits charge, a fee of up to 65 cents per megawatt hour, to fund, among other things, low-income rate assistance and energy efficiency.

The program began by providing low-income ratepayers with a 10 percent discount and then increased to a 17 percent discount.

Unfortunately the Texas Legislature raided the fund to shore up the state general fund, kicking 400,000 of the original 800,000 households off the program.

The System Benefit Charge also provided weatherization funds, about \$8.9 million during FY 2003. As a result of the Legislature's raid on the fund to balance the state budget those funds also went away.

As of August 2006, as part of a stipulation with the Texas PUC and advocates, utilities have committed to spending \$5 million annually on weatherization expenditures coordinated with the Texas Department of Housing and Community Affairs.

Yet giving some low-income households a 10 percent reduction of their electric bill may not be the most efficient method of providing help. Aside from the amount of the subsidy being very small there is the problem of the fickleness of the legislative appropriation process that, as we have seen, is prone to cut the subsidy at any time.

Texas needs to explore investing more money at the front end in energy efficiency and in PV panels when we construct or rehabilitate low-income housing. This will pay out benefits over the long term to low income residents. The additional federal low income housing tax credits authorized in the federal housing bill is a place to begin. We should provide extra credits to builders of low income housing who provide energy saving and energy generating features so long as the benefits are mostly passed through to the residents and not pocketed by the builder.

There is another reason to invest in the building and not in just providing subsidies on bills. Studies show that 70 cents of each dollar spent on energy leaves the community. On the other hand when a family in affordable housing spends a dollar on other goods only about 25 cents leaves the community. So, it would be better for the Texas economy to invest in efficient appliances, efficient heating and cooling systems, and PV panels instead of continuing to subsidize energy consumption.

¹⁴ Adequately fund the repair and reconstruction of affordable rental housing.

In the wake of a disaster, affordable housing rental units are most likely to be destroyed. This is due to the trend that low-income rental housing is generally made available when modest price rental units age and deteriorate, these units then become available and affordable as low-income rental housing. This was the case in the New Orleans metro area, where 80 percent of affordable housing was severely damaged or destroyed. More than 82,000 rental units were damaged or destroyed during the storms but only 33,000 affordable housing units were scheduled to be rebuilt as of June 2007. This would mean that only two in five Louisiana families would be able to return

to an affordable rental unit. In the New Orleans metro region, rents have increased up to 200 percent since Hurricanes Katrina and Rita. There is a lack of resources to meet the scale of need for people with fixed or very low incomes for housing rental recovery after a disaster.

Here are some recommended policy solutions to provide reconstruction of an equal number of affordable rental units to that which existed prior to a disaster:

Allocate more government resources during a disaster to help restore formerly subsidized rental housing units.

This can be accomplished by increasing the amount of project based section 8 vouchers targeted at the very low to extremely low-income households.

Of the 9,500 rental units that were promised to households that make less than 50 percent of the area median income, only 4,650 of these rental units were funded as of June 2007. Increasing the amount of project-based vouchers will allow this gap that continually exists in funding for very low and extremely low-income households to be significantly closed during a disaster.

These federal resources will only become available if Texas officials, and particularly the Texas Congressional delegation make these needs known to Congress and the Administration.

Authorize HOPE VI funds and state CDBG disaster recovery funds to rehabilitate and rebuild federally subsidized housing in disaster-affected areas. There should be a requirement to provide one-to-one replacement of public housing units that includes a process for creating high quality, mixed-income developments.

In New Orleans nearly 4,500 units of habitable public housing are scheduled to be demolished under the HOPE VI program while building in their place only 800 units. Given the number of New Orleans residents who cannot return home because of a lack of affordable housing, these units should be rehabbed or rebuilt using HOPE VI and state CDBG disaster rebuilding money and made available to displaced residents.

A similar problem now confronts the former residents of several public housing developments in Galveston flooded by Hurricane Ike. Extremely low-income households who are residents of public housing before disaster lack the financial resources to enter market rate housing. Therefore, it is essential to ensure that an adequate supply of public housing is made available to them. At the same time, the public housing stock in Galveston pre-Ike and around the country has been highly economically and racially segregated the opportunity should be seized to apply the principles of HOPE VI to rebuild better, more integrated housing.

Create a Disaster Recovery Fund that TDHCA can specifically utilize for funding to match the one-to-one replacement of very low and extremely low-income affordable rental housing.

It is historically difficult to reach deep levels of affordability in housing without layering government subsidies. During a disaster this is coupled with the loss of low-cost market rate housing and affordable units in public housing developments. A Disaster Recovery Fund would provide the state flexibility to target deep affordability development without needing to orchestrate various different federal funds that complicate and slow down the rebuilding process. The affordable rental housing partnership program (program #5) in recommendation number five could be used to accomplish this objective.

Create a Small Rental Property Program during disasters like the one created in the Louisiana Road Home Program to provide incentives and assist small-scale properties with low percentage government loans to renovate their properties and target low-income tenants.

In the current FEMA housing recovery process there are few incentives for landlords to renovate their small rental properties. Currently, if a landlord wants to rehabilitate their rental units he or she has to get a bank loan and banks are very hesitant to give loans for this purpose. By providing incentives and low percentage government loans, the barriers for small rental property owners are diminished and renovation can occur quickly and rental units can be provided for low-income households. Once again, the affordable rental housing partnership program (program #5) in recommendation number five could be used to accomplish this objective.

15 Develop models to combine temporary housing and permanent housing and ensure that assisted homes will survive future hurricanes and flooding.

Recommendation #5 outlined a five-point plan for Texas to use in rehabilitating and reconstructing housing that was damaged or destroyed in Hurricanes Ike and Dolly. One of the main elements of the plan is a program to rebuild the single-family homes of low-income homeowners that were destroyed in the hurricanes.

We recommended that the program designed and operated by the Texas Department of Housing and Community Affairs (the Texas Homeowner Assistance Program (HAP)) that was set up to rebuild the homes destroyed by Hurricane Rita be continued with some modifications and extended to serve Hurricane Dolly and Ike survivors.

One of the modifications to this existing housing repair and reconstruction program that we recommend is the establishment of a pilot program to develop better designs and construction techniques for the rapid replacement of single-family homes for low-income families in the wake of natural disasters.

We know that Hurricane Ike will not be the last major natural disaster Texas will face and we must use our rebuilding experience in this disaster to develop and put in place better models for housing rebuilding in future disasters.

The most important lesson we have learned from long-term housing recovery in the wake of Hurricanes Katrina and Rita is that the housing needs of low-income disaster victims are profoundly different from those of higher income families. Disaster recovery programs are failing to provide long-term housing stability to low-income families because of the programmatic focus on temporary as opposed to permanent housing.

FEMA attempts to assist low-income households through temporary housing. FEMA's temporary housing programs do not work well for a low-income population. FEMA is slow to provide temporary housing, the housing that it does provide has often been inadequate (as was the experience with the formaldehyde-laced travel trailers) and the cost to the government of providing temporary housing is ridiculously expensive.

What's more, the temporary housing often becomes a dead end for lower income households because of the failure to follow through and provide permanent housing that is affordable.

The FEMA model for household recovery is designed for households that have at least moderate pre-hurricane incomes and can expect to be reimbursed for a portion of the cost of rebuilding their homes from their private insurance. This means that FEMA expects to provide temporary housing for a very short duration of time while the area recovers, the household goes back to work, applies for and receives reimbursement from homeowners insurance for housing damages and secures the necessary repairs to get back into their home. While not perfect, the FEMA model does work fairly well for households with at least a moderate income.

But Hurricanes Katrina and Rita have made it all too apparent that this model does not work for lower income households. Lower income renter households must be temporarily housed for an extended period of time while government and the private sector work out financing for the reconstruction of affordable rental housing. The federal government has modified the pre-Katrina and Rita FEMA model to provide a housing rent voucher for a period of 18 months to assist lower income renter households during this rebuilding period. This was a step in the right direction. This approach breaks down however when delays are experienced (as they frequently are) in the construction of subsidized rental housing or when state and local decisions are either slow or act to prohibit the reconstruction of that housing.

FEMA attempts to assist low-income homeowners through its temporary housing program that is designed to meet the needs of homeowners for short-term temporary housing. This might work if other resources are available to the homeowner to allow them to quickly and effectively handle the complexity and financial burden of reconstructing and repairing their homes. But generally that is not the case when low-income homeowners are involved.

The resources to fund the reconstruction or rehabilitation of permanent housing are not directly connected to FEMA programs. Generally speaking, these programs are funded through special congressional disaster appropriations of Community Development Block Grant funds made available to state governments. These are the funds we are discussing in this testimony.

While Florida, which frequently must contend with the challenge of repairing and rebuilding homes destroyed by disasters, has established programs to rapidly provide effective housing rehabilitation and reconstruction assistance to lower income families, most states do not have established programs. Thus, Louisiana, Mississippi, Alabama and Texas, were forced to design housing assistance programs in the wake of Hurricanes Katrina and Rita. In each case, this resulted in low-income hurricane survivors having to spend extended periods of time in temporary housing as these programs were established.

An important lesson to be learned is that states should not wait until a disaster strikes before designing a program to assist low-income disaster victims to rebuild their homes.

It is clearly in the interest of both FEMA and state governments to cooperate to find a solution to housing low-income owner occupants more quickly. If state housing repair and reconstruction programs are not deployed rapidly, low-income hurricane survivors must rely on FEMA temporary housing assistance for a longer period of time and at greater cost to the federal government. FEMA's interest in controlling the cost of temporary housing by moving low income families back into permanent housing quickly should justify better coordination and greater flexibility in the use of FEMA resources to provide permanent housing along with additional federal appropriations for the rapid and efficient deployment of state operated permanent housing programs.

Consider, for example, the cost to the government to provide a FEMA trailer for temporarily housing a hurricane survivor. Not counting the considerable logistical costs of identifying places to put the trailers, securing reviews, permits and local permission, connecting utilities, maintaining the trailers etc. the cost to FEMA of simply purchasing and transporting the trailer and its furnishings can run upwards of \$50,000.

Now consider the plight of many low-income hurricane survivors who own their homes. It was not uncommon, in the wake of Hurricane Rita, for such households to be living on minimum Social Security incomes of less than \$700 a month while living in a house that had been passed down to them through the generations. Often the house had pre-existing conditions that meant it would need substantial and expensive repairs to bring it into compliance with current building codes. In a great majority of the cases the amount of money that FEMA spent temporarily housing a low-income owner occupant far exceeded the value of the family's home even before it suffered damage in the hurricane.

Few would dispute the government's obligation to provide temporary housing assistance to a family in the wake of a natural disaster and, likewise, few would dispute the inefficiency of spending large amounts of public funds to house a family temporarily in decent housing who would soon be forced to return to a massively substandard house. Doesn't it make more sense to devise a program to reduce the length of time a low income family must be housed in expensive temporary housing and to devote the savings to the improvement and affordability of their permanent housing?

This is the idea behind the pilot program that I have suggested.

The pilot program seeks to address the housing needs of low-income households facing two different sets of circumstances. The first group consists of those families whose homes, while suffering minor to moderate damage, can be repaired. Many of these families simply need roof repairs and minor structural repairs to be able to reoccupy their homes. The experience in recent hurricanes however has demonstrated that these repairs do not happen quickly. Low-income households often lack any available cash to contract for emergency repairs. As we observed their interaction with FEMA, which in theory could provide small amounts of cash to undertake such repairs, we learned many households were not able to access FEMA funds for these purposes.

The complicating factors included FEMA's policy of routinely denying assistance to households because the "pre-existing condition" of the house rendered it substandard prior to the disaster. Most recently and infamously this policy was applied wholesale to the homes of low-income homeowners in the Texas Rio Grande Valley that suffered major damage from Hurricane Dolly. This policy is highly fiscally imprudent given the fact that FEMA must pay for temporarily housing people regardless of pre-disaster housing problems.

A second barrier to low income households ability to use small FEMA grants to obtain emergency repairs to their homes can be found in FEMA's inability to explain, in a manner that people can understand, how to access and utilize FEMA's emergency repair funds. It often taxes the ability of legal aid attorneys and social service professionals to deal with and understand the FEMA bureaucracy. FEMA simply has not found a way to effectively communicate with low-income clients.

A third barrier to the use of FEMA emergency repair grants is the inability of low income households to successfully identify contractors, secure bids, negotiate contracts and oversee the repair work. On top of that is the difficulty of knowing exactly how to repair the house. In states like Texas, where home remodeling contractors are not licensed or properly regulated, low-income consumers are often left to the mercy of the predatory practices of the contractors. The shortage of qualified contractors in the wake of the disaster in which their services are in great demand is a greatly exacerbating factor.

A story that will stick with me for a long time is the one I was told by an 80-year-old woman standing in the kitchen of her wrecked house in Port Arthur, Texas. She had made countless trips to the FEMA Disaster Assistance Center to talk to a FEMA official. He told her that FEMA would give her several thousand dollars to make emergency repairs provided she was able to bring him three bids for the repairs. The FEMA official offered her no help in determining the type of repairs that her home needed. She had enormous problems finding three contractors to bid on the job. After many trips back and forth to see the FEMA official he authorized her to proceed without three bids. She got a roofing contractor to put a new roof on her house. Yet the house had been blown off its foundation by the hurricane. She then spent her meager savings paying an unlicensed and unscrupulous contractor to do ineffective, cosmetic repairs to the foundation. The roofing contractor she hired and paid with funds made available by FEMA failed to install the roof in accordance with local codes. FEMA determined that she had exhausted the funds it had available to assist her for emergency repairs. Her home remained completely uninhabitable and condemned by the city.

There must be a better way.

There is a need for a way to use the excess funds that can be saved by minimizing the cost to FEMA for temporary housing as well is to capture the emergency repair funds which FEMA has available but that are not effectively being utilized. These funds can go a long way to help get low-income people back into homes that only require modest amounts of repair.

Our recommendation is a program we call “Windows, Doors and Roofs”. We propose FEMA make funds available under the FEMA Individuals and Families Assistance Program to states and local governments to contract for and oversee repairs to the homes of low-income families. The goal is to prevent future damage from water coming through the roofs and windows from post-disaster rains. The State of Texas and the City of Houston both sought, and were denied, the cooperation of FEMA to undertake such a program in the wake of Hurricane Ike.

Let’s turn to a solution to the problems faced by low-income families who require complete reconstruction of their home.

The Stafford Act, the controlling statute for the administration of FEMA's Individuals and Family Assistance Program, caps the maximum benefit FEMA is allowed to expend to provide temporary housing and emergency repairs to a household at \$28,800. FEMA incurs additional costs in the form of the cost of acquisition of trailers for temporary housing.

As discussed earlier, the dysfunctional aspect of the current program is that it expends huge amounts of money for temporarily housing low income families who, at the end of the period of temporary housing assistance are simply cut off and told to fend for themselves in the wake of the failure to provide replacement housing. The solution is clearly to minimize the costs of temporary housing and to use those funds instead to rebuild homes.

With this goal in mind a number of organizations, including the Texas Department of Housing and Community Affairs, are cooperating to develop a small pilot program to produce architectural models and construction techniques to produce a house that can be built quickly enough to take the place of the FEMA trailer as temporary housing and which can serve to provide high-quality permanent replacement housing to low income homeowners. The small pilot program of four houses is intended to be the precursor of the larger pilot program that we have suggested in recommendation five.