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May 4, 2018

Sent via e-mail CDBG-DR@deo.myflorida.com

Heather Martin, Chief
Community Disaster Recovery
Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street
Tallahassee, FL 32399

Dear Ms. Martin:

Legal Services of Greater Miami, Inc. (“Legal Services”) is the largest provider of broad-based civil legal services for the poor in Miami-Dade and Monroe Counties, and is recognized in the state and in the nation as a model legal services program. A significant portion of Legal Services’ advocacy focuses on protecting the low-income communities’ rights to affordable, safe, and sanitary housing. This includes providing legal assistance and education to low-income renters, homeowners and mobile home park residents throughout Miami-Dade and Monroe Counties.

This direct client contact provides Legal Services with an acute awareness into the challenges the low-income communities of Miami-Dade and Monroe Counties have faced when recovering from Hurricane Irma. Legal Services submits the following comments to the State of Florida Action Plan for Disaster Recovery (the “Draft Plan”) released for public comment on April 20, 2018. These comments address the Draft Plan’s failure to provide adequate assistance to low income renters and failing to sufficiently commit to the preservation of mobile homes as a vital source of affordable housing through its highly restrictive eligibility requirements for the Home Repair Program.

ADDRESS THE REAL NEEDS OF LOW-INCOME TENANTS

- 1. Provide funding and equitably allocate for tenant-based assistance.** Low-income households, many of whom are renters, represent 75% of the units damaged from Hurricane Irma. It is vital that the CDBG-DR allocation recognize the decrease in homeownership and increase in renter households and provide assistance equitably to those renters.

The Draft Plan does little to address the needs of tenants who were displaced due to hurricane damage and are in need of immediate housing. The Draft Plan identifies the

following Housing Activities (Page 85): (1) Housing repair and replacement; (2) Workforce Affordable Rental New Construction Program; (3) Land Acquisition for Workforce Affordable Rental Program; and (4) Voluntary Home Buyout Program. The Draft Plan does not include sufficient assistance for renters who were displaced by the storm.

Prior to the storm, South Florida was already experiencing an affordable rental housing shortage. For example, between 2000 and 2015, the region's rental housing supply grew, but the area had a net loss of 85,640 units affordable to renters with incomes below 60 percent of the AMI. *See e.g., Florida's Affordable Rental Housing Needs: An Update* by The Shimberg Center for Housing Studies; *Affordable Rental Housing Trends: South Florida* by The Shimberg Center for Housing Studies.

As such, we recommend providing Tenant-Based Rental Assistance (TBRA) to low-income renters displaced by the hurricane that can be extended for up to 48 months while renters wait for new and/or rehabbed affordable rental housing to be constructed.

2. **Prohibit recipients of federal and state disaster recovery funds from refusing to rent to tenants based on their source of income.** While Miami-Dade and Broward Counties have an ordinance that prevents discrimination in housing based on source of income, Florida's fair housing statute does not. Placing such a restriction on those receiving CDBG-DR funds would ensure that low income families have access to affordable housing in more areas and are not forced to live in housing in high poverty and/or low opportunity areas.
3. **Require 50 year affordability period to address long-term affordability and maximize the federal investment.** The Draft Plan only requires a 20 year affordability period for rental housing rehabilitated under the Housing Repair Program. Yet, the current affordability restriction for Low Income Housing Tax Credit (LIHTC) properties in Florida is 50 years. There is no reason why the affordability restrictions for affordable rental housing developed with CDBG-DR funds should be less than 50 years. This is especially true when the CDBG-DR funds are used as either a standalone financing source or in combination with another source of financing which is not LIHTC, as there is a severe danger that after the initial 20 year period, the affordability will be lost.
4. **Provide funding to address the preservation of damaged rental units.** The Draft Plan designates funding for new construction under the LIHTC program, but there does not appear to be any set asides for using the LIHTC program in combination with the CDBG-DR funds to rehabilitate and preserve existing affordable rental housing. Florida currently utilizes 15% of its LIHTC funding for preservation, and we recommend that the Draft Plan at the very least do the same. Preserving what is already existing is especially important in areas that were hardest hit by Hurricane Irma, where land is expensive and scarce. This would also greatly increase the effectiveness of the LIHTC program, as preservation usually requires far less subsidy per unit than new construction.
5. **Reduce barriers for low-and moderate-income (LMI) households to LIHTC properties.** LIHTC properties often have admission policies that prevent LMI

households from accessing the housing and are designed to screen people out. These policies include: charging application fees for each adult applying, requiring applicants to pay a security deposit, first and last month's rent, and miscellaneous fees in advance; minimum income requirements for tenants with rental assistance; and unreasonable criminal and credit background checks. These policies deter many households from applying and for those that do apply; they are rejected because of these policies.

We recommend that the Draft Plan eliminate these barriers to LIHTC properties so that LMI households are able to access and qualify for this form of housing. Additionally, many LIHTC properties utilize continued occupancy policies that result in LMI households unnecessarily losing their housing. This includes rent increases during the term of the lease. Since many LMI renters are already rent burdened an unexpected rent increase during the term of their lease can lead to eviction and/or homelessness.

PRESERVATION OF MOBILE HOMES

- 6. Commit to the preservation of mobile homes as a source of affordable housing.** While the Draft Plan acknowledges that “[n]early 10 percent of the nation’s mobile homes are located in Florida. This vulnerable subgroup should be monitored during recovery to ensure property mitigation and remediation are occurring on these fragile homes.” *See* Page 29/53-54. The Draft Plan does not go far enough to commit to the preservation of mobile homes as a vital source of affordable housing.

The Draft Plan states:

Mobile homes or manufactured homes may be eligible for rehabilitation under this program. However, to be cost effective, the mobile home to be rehabilitated must be no more than five years old at the time of assistance *and* the repair costs necessary to rehabilitate the mobile/manufactured home must not exceed \$5,000 (hard and soft construction costs). Any mobile/manufactured home that is older than five years old or has an estimated repair cost greater than \$5,000 *shall* require the mobile/manufactured home to be replaced with another mobile/manufactured home.” These proposed eligibility requirements are highly restrictive.

See Pg. 89 (emphasis added). While mobile homeowners may qualify for the Housing Repair Program, the proposed eligibility requirements are highly restrictive.

First, the requirement that mobile homes be less than five years old to qualify will exclude many mobile homeowners whose homes exceed that limit. The majority of mobile homes in Miami-Dade and Monroe Counties are well-beyond five years old. Florida has more mobile homes than any other state – about 828,000, and only about 25%

were built after 1994.¹ This is especially true for LMI households. Therefore, we recommend that the eligibility age limit be extended to homes that are 20 years old. This will allow more mobile-home owners who wish to remain in their homes access to necessary home repair.

Second, the \$5,000 cap for necessary repairs is also a highly restrictive eligibility requirement considering these mobile homes may be worth \$30,000 - \$50,000 (especially in the Florida Keys), and costs of repairs may be more than \$5,000, but worth making. Additionally, assuming these eligibility requirements remain, the Draft Plan, in its current form, fails to address what assistance, if any, a mobile/manufactured homeowner would qualify for if the homeowner is required to replace the home.

We recommend that the Draft Plan be amended so that it is clear that if a mobile/manufactured homeowner is required to purchase a new, replacement mobile home that assistance will be provided under either the Home Repair Program or Voluntary Home Buyout Program.

Lastly, the eligibility requirement that these homeowners must have maintained flood insurance on the damaged property at the time of the disaster will exclude many mobile homeowners from eligibility. Much of Florida's most vulnerable housing is in areas threatened by floodwaters, providing shelter to some of the state's neediest residents who cannot afford insurance coverage to protect against flood damage. Additionally, many mobile home residents typically do not have a mortgage and therefore are not required to maintain such insurance.

Given the realities faced by low-income mobile homeowners, we recommend that the Draft Plan acknowledge a commitment to the preservation of mobile homes as a vital source of affordable housing by amending the mobile homeowner eligibility requirements for the Housing Repair Program so that more mobile homeowners may qualify for this crucial assistance.

FUNDING FOR REHABILITATION FOR SMALL RENTAL DEVELOPMENTS

- 7. Provide funding for the rehabilitation of small rental developments.** In its current format the Draft Plan includes funding for "Workforce Affordable Rental New Construction" but it does not provide any funding for small rental developments (i.e. 50 units or less) that are currently in existence and in need of rehabilitation as a result of Hurricane Irma. We recognize that on page 78 of the Draft Plan there is a statement that "[t]he rehabilitation of housing with four or more rental units in a building may be funded under this Action Plan", but this statement contradicts the title of this section and is not sufficient to alleviate the need for affordable housing for LMI households.

¹ See https://www.washingtonpost.com/news/wonk/wp/2017/09/12/florida-has-828000-mobile-homes-only-half-are-insured/?noredirect=on&utm_term=.433c810aa747; see also <https://www.wsj.com/articles/after-irma-many-mobile-homeowners-may-face-tough-choice-1505255692>.

We recommend that the Draft Plan be amended to include specific funding for the rehabilitation of small rental developments (i.e. less than 50 units), or at a minimum, that the limitation of funding to only “new construction” be eliminated. It is important the CDBG-DR funds be available as stand-alone financing for these small rental developments as these developments do not qualify for LIHTC financing. Lastly, this funding should not be limited to small, less populated counties as the need for rehab of existing small rental developments has greatly increased in areas hardest hit by Hurricane Irma, regardless of county population.

PROCEDURAL CONCERNS

- 8. Provide opportunity for public hearing.** Hurricane Irma was a massive storm that impacted most of the state. Therefore, holding public hearings in multiple locations would increase the ability of people across the state to participate in the citizen comment period. This is particularly important given that 20% of Floridians over 16-years old lack basic reading skills.
- 9. Make resources available to people with disabilities.** We recognize that the Draft Plan includes people with disabilities as one of the groups prioritized for assistance. However, to afford persons with disabilities access and an opportunity to provide comments to the Draft Plan, both the Draft Plan and DEO’s website, must be in compliance with Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504). This is particularly important for persons whose disability prevents them from accessing DEO’s website and the Draft Plan, such as persons who are visually or mobility impaired and persons with cognitive disabilities. Approximately 13.7% of persons in Florida have a disability. Of persons with disabilities who are of working age, 25.8% live in poverty.

We suggest that DEO take immediate steps to make its website and the Draft Plan compliant with both Section 504 and the ADA so that the thousands of Floridians with disabilities who are impacted by the Draft Plan have equal access and opportunity to provide input.

- 10. Maintain the current threshold for income targeting for CDBG-DR funds to ensure that the people who are most in need of housing are able to obtain housing.** Currently, 70% of CDBG-DR funds must be used for the benefit of LMI people and communities. As estimated by the State of Florida, the federal disaster recovery funds being directed to the state will not meet all of the affordable housing need. Therefore, it is important that these dollars be directed in a way that provides maximum recovery benefits. The program budget contained in the Draft Plan focuses on assisting renter households through the Workforce Affordable Rental New Construction Program. However, the Draft Plan does not define what constitutes workforce housing or that such housing will be affordable to LMI households. Florida’s wages, especially for low-income workers, have not kept up with the price of housing. People living on disability or fixed incomes may not have sufficient income to live in workforce housing. In addition, several impacted populations may not be able to work, including seniors and people with disabilities.


11. Provide a clear timeline and implement procedures for appeals. The Draft Plan discusses ways in which citizens may appeal program decisions related to: (1) a program eligibility determination; (2) a program assistance award calculation; and (3) a program decision concerning housing unit damage and the resulting program outcome. The Draft Plan, however, does not include a timeframe for those appeals, whether a hearing will be available and the manner in which those appeals are resolved. It is a basic tenant of due process that applicants be provided with notice and opportunity to contest the decisions of the program and be provided full and unbiased reconsideration of program decisions.

PROVIDE FOR A SPECIFIC NON-PROFIT SET ASIDE FOR DEVELOPER APPLICANTS.

12. Allocate funds for nonprofit owned developments. The Draft Plan currently defines eligible applicants as private for-profit and non-profit housing developers, units of local government, and public housing authorities. Nonprofit housing developers are more willing to combine services as integrated into their housing developments, provide housing for the lowest income brackets, preserve affordability long term, and ensure that the housing development is meeting critical community needs as well as provide a forum for community involvement. Allocating a certain amount of the available CDBG-DR funds for nonprofit owned developments and/or providing additional points for those applicants who are nonprofit organizations is recommended.

Thank you for considering our comments.

Sincerely,

By: 

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