

U.S. Commission on Civil Rights**Public Briefing on the Federal Emergency Management Agency (FEMA)'s role in disaster preparedness and response to Hurricane Maria in Puerto Rico**

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I- Puerto Rico Context

It has been more than four years since Hurricane Maria impacted Puerto Rico. It was an unprecedented emergency that left unimaginable death and destruction in its wake from which we have still not recovered today. The more than 3,000 lives taken too soon, the forced displacement of hundreds of thousands of residents, the ongoing plague of blue tarps on rooftops, the months of schooling that children lost, the long anxious wait for promised help to arrive, and the darkness – the never-ending darkness. There is no doubt that both U.S. federal, and Puerto Rico central governments failed to manage the crisis and protect the people.

The federal government response was inefficient, ineffective, and inequitable. This, especially when compared to the significant rapid assistance offered by the Trump administration to Texas after Hurricane Harvey and Florida after Hurricane Irma, which hit those states just weeks before Hurricane Maria. Their Puerto Rico response was hampered from the outset by a lack of familiarity and sensitivity to cultural norms, structures of local government and institutions, the unique legal framework, language barriers, and geography. This lack of familiarity and sensitivity coupled with their opaque, bureaucratic, and rigid processes, centralization, discriminatory political interference by the previous administration, and unique administrative barriers imposed on Puerto Rico, undermined recovery efforts by FEMA and other federal agencies.

The Trump Administration's disdain towards the people of Puerto Rico after Hurricane Maria was best embodied by the President himself as he carelessly tossed paper towels into crowds of survivors, [casually tweeted of the lives lost](#), tweeted that Puerto Ricans "[want everything done for them](#)" just days after landfall, and per the former [Acting Secretary of Homeland Security, Elaine Duke](#), questioned, "Can we sell the island? You know, or divest of that asset?" [Later, in 2019](#), while Puerto Rico was facing the possibility of Hurricane Dorian making landfall, he claimed in a tweet that Puerto Rico was one of "the most corrupt places on earth," that Puerto Rico's elected officials are "either incompetent or corrupt," and that he was "the best thing that's ever happened to Puerto Rico."

Hurricane Maria was neither the first nor last disaster in Puerto Rico. Just since 2017, Puerto Rico has experienced two hurricanes (Irma and Maria), devastating earthquakes, tropical storms, flooding, suffocating austerity, and the ongoing global pandemic, among other challenges.

These disasters have laid bare the archipelago's complex economic, social, political, and environmental vulnerabilities. Over the last decade Puerto Rico has experienced a consistent poverty rate of [over 40 percent](#), an average [unemployment rate over 11 percent](#), the lowest median income of any US state or territory ([\\$20,539 vs \\$62,843 for overall US](#)), tightening austerity measures, and a dramatic [11.8 percent decline](#) in population. In addition, compared to the overall United States, Puerto Rico census data [reports](#) a higher population of women (52.5% vs 50.8%), people age 65 and older (21.3% vs 16.5%), people with disabilities ([21.6% vs 12.7%](#)), people who speak a language other than English at home (94.5% vs 21.6%), people who identify as Hispanic/Latino descent (98.7% vs 18.5%), and people who identify as a race(s) other than white alone ([82.9% vs 38.4%](#)). Therefore, discrimination against Puerto Rico should not only be considered through the lens of national origin, but also through the likely disparate impact on people who are women, elderly, disabled, and/or people of color. The disparate impact of discriminatory federal policies and practices on Puerto Rico's poor must also be evaluated as Puerto Rico's high poverty is closely tied to discrimination based on gender, age, ability, race, ethnicity, national origin, and to colonialism.

However, this situation was not a surprise as it is firmly rooted in more than [100 years of discriminatory policies and an unjust balance of power between the federal government and the people of Puerto Rico](#).

For 123 years Puerto Rico, an unincorporated U.S. territory, has been held in a colonial relationship with the US that both denies a path to statehood and has criminalized nationalist movements for independence. In 1917, the US conferred US citizenship but not all the corresponding rights that come with citizenship on Puerto Ricans. The legal basis for this denial of full rights were a series of US Supreme Court legal opinions that began in 1901, known as the Insular Cases, in which the Supreme Court argued that Puerto Rico and other territories "ceded" by the Spanish were full of "alien races" who couldn't understand "Anglo-Saxon principles" and, therefore, the full measure of the Constitution did not apply to them. These same Justices infamously ruled "separate but equal" in Plessy vs Ferguson just a few years earlier. [For the next 100 years and today](#), the racist precedents set in the Insular Cases continue to be used by the federal government to defend their discriminatory policies and practices towards Puerto Rico.

Most recently, [both the Trump and Biden Administrations](#) have used these legal precedents to justify the federal governments total denial of Supplementary Security Income for Puerto Rico's disabled and elderly residents in the ongoing case of United States vs Vaello-Madero (and other pending cases related to various federal benefits programs). The US Court of Appeals for the First Circuit [upheld](#) in Vaello-Madero that "disparately classify[ing] United States citizens residing in Puerto Rico" runs "counter to the very essence and fundamental guarantees of the Constitution itself" and said it was "irrational and arbitrary" to exclude otherwise eligible individuals from the SSI program solely because they reside in the territory. The District Court in the same case noted "United States citizens residing in Puerto Rico are the very essence of a politically powerless group, with no Presidential nor Congressional vote..." Despite this, both administrations have continued to appeal the lower courts decision and on November 9, 2021, the Department of Justice again defended this discrimination before the US Supreme Court.

These same Insular Cases allowed Congress to exclude Puerto Rico from federal bankruptcy protection laws. In 2016, when Puerto Rico was facing a fiscal cliff with an estimated \$120 billion in unpayable public debt and unfunded pension liabilities, Congress passed and President Obama signed [PROMESA](#), a controversial law to restructure the debt. This law also imposed an undemocratic Fiscal Oversight Management Board, which has almost absolute authority over Puerto Rico's budget and has since enforced severe austerity measures. Much of this debt was created as a result of Puerto Rico's ongoing recession, which began in 2006 after Congress ended a key tax incentive for companies operating in Puerto Rico and many chose to leave. As Puerto Rico's government borrowed money to make up for losses, [banks unscrupulously took advantage of Puerto Rico's political status](#) and economic need to encourage the excessive debt and sell risky bonds. As a U.S. territory, Puerto Rico is exempt from key investor protections provided under the Investment Companies Act of 1940, which they used to their advantage to sell bonds that are illegal in the 50 states.

The full historic and actual political context and the precarious socio-economic conditions must be fully accounted for when evaluating what a just, equitable, and sustainable emergency response and recovery to Hurricane Maria should have been.

II- **Hispanic Federation's Impact on Puerto Rico's emergency relief and recovery**

Hispanic Federation (HF) is a 30-year-old, national non-profit organization with the mission to empower and advance Hispanic communities, families, and institutions. HF, founded and headquartered in New York, has regional offices in Florida, Connecticut, and North Carolina, and in January 2018 also established a permanent office in Puerto Rico. Today, HF operations spans 40 states across the nation through grantmaking, capacity building, community programs, and federal, state, and local policy advocacy.

Immediately after Hurricane Maria, HF began one of the largest private emergency relief and sustainable recovery efforts in Puerto Rico. To date, Hispanic Federation has raised and invested more than \$42 million in private funding into the recovery of the archipelago. With those funds, we have provided grants to more than 130 local nonprofit organizations and executed multiple largescale initiatives in areas such as: disaster relief, housing and renewable energy infrastructure, agriculture and food security, health and mental health services, economic development and small business support, and education, among others. Hispanic Federation aims to expand capacity, equity, and social capital across historically marginalized communities, strengthen local economies, and respond to the front-line realities of climate change in Puerto Rico.

Days before Hurricane Maria made landfall, Hispanic Federation convened a meeting with the New York City Mayor, city, state, and federal elected officials, and nonprofit agencies to begin coordinating our disaster response. Once the full scope of the devastation became clear, HF partnered with the NY governor's office, office of NYC mayor, and other city officials to take emergency action. This included chartering the first [private humanitarian relief flight on September 23](#), just three days after landfall, which transported a team of 22 city first responders. This flight would become the first of 25 humanitarian flights chartered by Hispanic Federation to quickly transport medical and other essential supplies, food, water, medical and emergency personnel, solar panels, and more to Puerto Rico.

At the time, Hispanic Federation had some prior experience with disaster relief, no existing operations in Puerto Rico, and a relatively small budget. Despite this, in less than three weeks HF had helped set up and coordinate 17 donation sites across New York, collected more than 200 pallets of supplies, began working directly with multiple Mayors and community groups in Puerto Rico, coordinated 7 additional aid flights, and launched a new strategy to purchase millions of pounds of food and water directly from island-based distributors who had warehouse full of goods and the trucks and fuel necessary to deliver to municipalities. At some point, it became impossible for HF to transport supplies from the United States through traditional shipping systems. This new strategy working with local distributors allowed us to invest funds in local businesses and importantly, we were able to avoid the logistical bottleneck created by the government at the ports that was preventing resources from reaching communities in urgent need.

With this new distribution strategy, within a month we had reached 30 municipalities, by two months 60, and over the next few months all 78 municipalities had received an estimated 7.4 million pounds of culturally appropriate, nutritious food, water, and other emergency supplies including solar lamps, water filters, and first aid. On October 27, HF provided the single largest aid package delivered to San Juan at that time at over 220,000lbs.

Simultaneous to the emergency response in Puerto Rico, the Federation and our network of community non-profits in New York, Florida, Connecticut, Pennsylvania and New Jersey set up welcome centers, offered crisis services, and provided social and financial programs to support the tens of thousands of displaced families seeking temporary and permanent refuge across the US.

Meanwhile, our office in Washington, DC led an intense advocacy effort to prioritize Puerto Rico's relief and recovery in Congress, secure substantial disaster funding allocations for the archipelago, lift discriminatory barriers, ensure ongoing support to displaced Puerto Ricans, and inform government leaders on the realities of Puerto Rico. HF's campaign, Take Action 4 PR, is still active today.

In addition, within just six months, HF had provided more than \$15,000,000 in relief and recovery grants to dozens of vetted nonprofit community organizations across the island. We have since vetted and granted to a network of 130 local nonprofit entities and funded multiple, major initiatives to repair hundreds of homes, install hundreds of small and large scale solar energy systems, provide direct support to thousands of small-scale farmers, fishers, and micro enterprises, replant two million coffee trees, repair community aqueducts, strengthen dozens of community health centers, restore forests, beaches, and coral reefs, build capacity in the mental health sector, provide direct cash assistance to thousands of households, implement community flood mitigation strategies, among many others.

Recognizing the obvious connection between healthcare, energy access and saving lives, Hispanic Federation and partners quickly launched two multimillion-dollar initiatives to repair infrastructure and stabilize energy with solar energy systems at federally qualified health centers across Puerto Rico. As we witnessed a government failure to adequately address housing issues, HF began funding home repairs and rental assistance. Although federal funding should have been readily available for this work, groups had to rely on philanthropic efforts to fill major gaps in the response.

All the efforts described were only possible due to our broad network of multisector partnerships and collaborations who together prioritized lives over bureaucracy and protagonism. To be effective we remained nimble, adaptive, innovative, decentralized, collaborative, took smart risks, and above all trusted the experience of the local community based-nonprofits, health centers, grassroots groups, and philanthropic entities to inform our strategies.

In particular, the ongoing relationships we built with a diverse network of Puerto Rico based nonprofits has been foundational to HF's impact. It has long been clear to us that the unsung heroes and first responders of the hurricane relief and recovery efforts are Puerto Rico's nonprofit organizations, grassroots community leaders, and mutual aid networks. HF witnessed this firsthand after the hurricane, again after the earthquakes, and most recently during the COVID-19 pandemic. However, neither FEMA nor the Puerto Rico government has fully acknowledged and integrated these groups into emergency relief efforts. Nor have they been remunerated for the work they completed that was the responsibility of the government.

Using the experiences and relationships HF has established since 2017, when multiple earthquakes shook Puerto Rico in January 2020, HF was able to begin moving essential supplies to the impacted area within 24 hours. Five days later, HF opened a largescale distribution center in the south with locally purchased food, water, and emergency supplies. This distribution center primarily worked with 124 nonprofit and faith-based organizations, but also a small number of government officials and even a team of NYC emergency responders. In turn, these groups delivered those supplies into the hands of 70,000 people in need across the region. While we had planned to remain open just a few days, VOAD (Voluntary Organization Active in Disasters), who was in direct communication with FEMA, asked us to extend our emergency distribution to a full two weeks because **FEMA's operation was still not up and running.**

Although Hispanic Federation had some previous experience supporting communities post disasters such as 9/11 in New York, Pulse in Florida, and even international aid in Latin America, we did not start out intending for our hurricane Maria disaster response to become this expansive. Our relief effort had to grow because the traditional government disaster relief systems failed. People watching from around the world and desperate to help put their trust in Hispanic Federation to step up, and donations from more than 200,000 individuals, corporations, and philanthropies helped us raise the resources necessary to take action.

Hispanic Federation ultimately became one of largest private funders of emergency relief and recovery efforts in Puerto Rico, though our resources are relatively miniscule when compared to the federal resources, including more [\\$38,828,477,850, at FEMA's disposal](#). Why then has the FEMA response in Puerto Rico been so slow, inadequate, and plagued with problems?

III- **FEMA Hurricane Maria emergency relief and recovery response**

FEMA has at times seemed to shrug off responsibility for Hurricane Maria and suggest that it is the state and local governments responsibility, not theirs to adequately prepare for and recover from a disaster. There is an assumption that a state or locality will have both the capacity and resources to meet this expectation when a disaster hits, and perhaps many US States are able to do so. However, Considering

the previously described political and socioeconomic context of Puerto Rico and the unprecedented category 5 Hurricane Maria, FEMA and the entire federal administration should have anticipated this would not be the case in Puerto Rico and adapted their preparedness plan and response accordingly.

[In a September 2018 report by the US Government Accountability Office \(GAO\)](#), they state that “Hurricane Maria was the strongest hurricane to make landfall in Puerto Rico since a Category 5 hurricane in 1928, according to the National Oceanic and Atmospheric Administration. Puerto Rico officials explained that local preparation for a Category 5 hurricane is limited by physical space and financial resources needed to stockpile necessary supplies to respond to a hurricane of that magnitude and also because such hurricanes occur infrequently.” Regarding the deficient energy infrastructure, the reports adds, “According to FEMA and Puerto Rico Aqueduct and Sewer Authority officials, Puerto Rico had limited access to federal funds to renew and replace infrastructure prior to hurricanes Irma and Maria due to its outstanding public debt. Specifically, PREPA officials told us that their ability to prepare for the hurricane season was impacted by Puerto Rico’s financial situation due to vendor concerns with reimbursement for services and goods.” What the report leaves out is how Puerto Rico’s austerity measures had also [gutted the governments human capital](#) and left it with far fewer employees, and less experienced employees than in disasters past.

This same flawed theory of preparedness is also passed down to individuals who are expected by FEMA and local government take on the personal responsibility to evacuate, if necessary, fortify their homes, store enough food and water reserves to last multiple days, and then look to their personal insurance, savings, and loans to get back on their feet. This may be a reasonable expectation for the average US household, however for families who live in poverty, rely on public food benefits, or live on limited fixed incomes as so many in Puerto Rico do, there is no money left over to buy extra food reserves, to easily evacuate a community (let alone an island) before or after a disaster, or to obtain personal insurance, savings, and loans to help finance recovery quickly.

[FEMA’s National Advisory Committee wrote in 2020](#), “While it is not the role of FEMA to dismantle a series of systems that cause inequity, it is within the role of FEMA to recognize these inequities (and the disparities caused by them) and ensure that existing or new FEMA programs, policies, and practices do not exacerbate them.”

FEMA must make greater considerations to adapt and respond to the realities of a region and of individual households before and after a disaster. This is particularly important for Puerto Rico, who will inevitably continue to face greater and greater climate disasters.

FEMA emergency supply distribution

It is no secret that the Federal Government response in Puerto Rico after Hurricane Maria was lacking in contrast with other US disaster responses during Trump’s administration. For example, in a PBS FRONTLINE [report comparing the federal response](#) nine days after the 2017 back-to-back hurricanes Harvey in Texas, Irma in Florida (Irma also impacted Puerto Rico), and Maria in Puerto Rico, it becomes clear. Nine days later, 20,000 tarps were delivered to Texas, 98,000 to Florida, and only 5,000 to PR; 5.1 million meals to Texas, 10.9 million in Florida, and only 1.6 million to Puerto Rico; 4.5 million liters of

water to Texas, 7 million to Florida, and only 2.8 million to PR; 30,000 federal work force to Texas, 22,000 to Florida, and only 10,000 to PR, a number that eventually reached 19,000.

On the question of workforce, the [New York Times reported that](#) “military officials involved in past disaster responses said that help for Puerto Rico **should have been ramped up much earlier.**” Russel L. Honoré, the retired lieutenant general who took over the federal response to Hurricane Katrina in 2005, said, “the government needs to quickly move 50,000 troops to Puerto Rico... Puerto Rico is bigger than Katrina.”

During this same 9-day time, HF was communicating with doctors from a hospital in Guayama who were reporting that they were almost out of potable water, and with multiple retirement homes for the elderly in San Juan that were almost out of fuel for generators, none of whom had heard from FEMA yet.

One week after the hurricane, a police officer in Ponce shared in an [interview](#), “With all the needs there are, we go out every day to the streets and are face to face with the people — you don’t see a single government agency.’ She had recently visited poor neighborhoods in her district and found people living in dire conditions.”

In 2018, Michael Byrne, the FEMA federal coordinating officer for Puerto Rico, told [FRONTLINE and NPR](#) “We had problems getting everything. When you have to ship it, when you have to add seven days or something longer... it’s definitely a challenge.” However, less than one week after Maria, HF was in communications with regional airports in both Aguadilla and Ponce who had opened to humanitarian and military flights and could have been used more to quickly transport initial emergency supplies. In three weeks, with relatively limited funds and few local connections, HF was able to send seven flights full of aid. It is worth analyzing how and when FEMA decided to rely on air versus water to ship emergency supplies that were urgently needed.

Once FEMA aid arrived in Puerto Rico, the situation was made worse. A [2020 investigation of FEMA by Department of Homeland Security Office of Inspector General \(OIG\)](#) found that “Commodities successfully delivered to Puerto Rico took an average of 69 days to reach their final destinations.” The same OIG report found that “FEMA lost visibility of about 38 percent of its commodity shipments to Puerto Rico, worth an estimated \$257 million. Inadequate FEMA contractor oversight contributed to the lost visibility and delayed commodity shipments. FEMA did not use its Global Positioning System transponders to track commodity shipments, allowed the contractor to break inventory seals, and did not ensure documented proof of commodity deliveries. Given the lost visibility and delayed shipments, FEMA cannot ensure it provided commodities to Puerto Rico disaster survivors as needed to sustain life and alleviate suffering as part of its response and recovery mission.” One well reported example of this was the [20,000 surplus pallets of bottled water, valued at \\$22,529,643.84](#), which arrived in PR in March 2018 and were discovered abandoned at the Ceiba regional airport one year after hurricane Maria. In March 2018, when those surplus water bottles arrived on the island, Hispanic Federation was still delivering water filters to communities who would remain without potable water in their homes for months to come.

In another concerning example of FEMA's poor management, they [awarded \\$30 million in contracts to an unexperienced, tiny Florida company](#) to provide thousands of tarps and plastic sheeting that were never delivered. The new company had never received a government contract, nor had they ever supplied tarps or plastic sheeting, yet FEMA defended their choice saying this was the most qualified company who bid. Additional concerns with FEMA contracting are detailed later in this document.

FEMA food distribution

Ongoing delivery of quality meals was vital in Puerto Rico, where even as some grocery stores began to reopen, their shelves were nearly bare, and they had none or limited electricity. The downed power and telecommunications systems also meant that ATM and credit card systems were offline, and families who relied on PAN (Puerto Rico's version of the Supplemental Nutrition Assistance Program) to purchase food could not access the funds.

A closer analysis of FEMA emergency food distribution also raises serious alarms. Personal accounts from survivors reported that their purported meal boxes were full of items like candy, beef jerky, chips, and crackers. One mother reported to NPR that her family of four received just one small box from FEMA for the duration of the emergency, which was full of applesauce cups, animal-shaped cookies, beef jerky, canned pasta, bottled water, and plastic cutlery. These reports prompted an [investigation by professors at George Washington University](#) who found that food aid to Puerto Rico was not just nutritiously deficient, but also promoted dangerous levels of salt and sugar intake. In Puerto Rico, [34% of adults report fair/poor general health, 15% suffer from diabetes](#) and 35% from obesity. The connections between poverty, racism, and poor health outcomes are well documented and it is not unreasonable to expect FEMA to anticipate and account for these health concerns when planning a culturally competent response for Puerto Rico and other high poverty and people of color regions. To do otherwise is negligent.

In a related problem, FEMA awarded a [\\$156 million contract to an Atlanta company](#) with no experience in large-scale disaster relief and at least five cancelled government contracts. Unsurprisingly, of the 30 million meals she was contracted to provide, only 50,000 were delivered and the contract later cancelled.

FEMA Individual and Households Program (IHP)

[On April 23, 2018](#), over 1.1 million Puerto Rican households had already registered with FEMA. [As of May 2018](#), 99% of registered households were considered valid and 79% of those referred to FEMA's Individual and Households Program (IHP), which offers multiple forms of assistance for homeowners and renters whose primary residence was damaged as a result of a presidentially declared emergency. Three of these assistance programs and their primary problems are detailed below.

IHP - Home Repairs/Replacement Assistance

The IHP Home Repairs/Replacement Assistance are intended to provide financial assistance to homeowners whose primary residence was damaged or destroyed, when the damage is not covered by insurance. The assistance program was riddled with obstacles for survivors including, an application best completed online (even though only half of Puerto Rico has broadband access and at the time

telecommunications systems were down), limited regional assistance centers for in-person support when applying, [inspectors who did not understand Puerto Rico's home addresses](#) or housing realities and left homes uninspected, unqualified inspectors who made erroneous damage assessment, poor communication, insufficient funding disbursed, long waits for inspections, and lack of meaningful language access.

Six months after Maria, one community leader HF worked with in Mogotes, Yauco had visited the FEMA office multiple times asking them to send an inspector to her remote mountain community to inspect the 40 homes damaged there but they had still not come.

It is widely known that Spanish is the primary language in Puerto Rico, yet FEMA inspectors who could not communicate in Spanish were still deployed to inspect homes, which unsurprisingly resulted in incomplete inspections, more missed appointments, misunderstandings, under-estimates for financial assistance, and denials. Greater details on FEMA language access issues are provided later in this document.

In addition, FEMA's own failure to properly recruit and train its staff led to problems across their programs and deployments. The September 2018 GAO report found that at the height of FEMA's workforce deployments in October 2017 across all disasters, "54 percent of staff were serving in a [capacity in which they did not hold the title of "Qualified"—according to FEMA's qualification system standards—a past challenge GAO has identified. FEMA officials noted that staff shortages, and lack of trained personnel with](#) program expertise led to complications in its response efforts, particularly after Hurricane Maria."

Perhaps the most egregious problem that prevented survivors from participating in the assistance program was FEMA decision to apply an [arbitrary title documentation requirement for proof of ownership, which resulted in broad denials based on "ownership not verified." In Puerto Rico, local housing law does not require homeowners to hold a title](#) unless they have a mortgage. At the time, as high as [55 percent](#) of homeowners did not hold a title. Thousands of homes were built informally, some communities share a collective ownership through land trusts, and family property has been passed down and divided by family members over generations. Under the Federal [Stafford Act](#), Sec. 408. Federal Assistance to Individuals and Households (42 U.S.C. 5174) limits some individual assistance to owner-occupied residences. The Code of Federal Regulations, [44 CFR § 206.110](#) - Federal assistance to individuals and households, defines owner-occupied as a residence occupied by: (1) The legal owner; (2) **A person who does not hold formal title to the residence** and pays no rent, but is responsible for the payment of taxes or maintenance of the residence; or (3) A person who has lifetime occupancy rights with formal title vested in another. It clearly recognizes that not all applicants must have a formal title to the residence. This leaves it to FEMA's discretion what documentation they will accept as evidence of homeownership, and despite being informed by local advocates of Puerto Rico's distinct housing context that would prevent many from holding a formal title, FEMA chose to continue requiring a formal title for almost a year. Through sustained advocacy from groups such as, Ayuda Legal Puerto Rico, Fundación Fondo Acceso a la Justicia, and the National Low Income Housing Coalition, in [August 2018, FEMA finally conceded](#) that the Stafford Act does not require a title to prove ownership and agreed to accept a sworn affidavit. However, by this point they had already denied assistance to tens of thousands

of families and FEMA [made no meaningful effort](#) to inform the public and those individuals previously denied that they could appeal with the affidavit.

In [2019](#) and [2021](#), FEMA officially updated their guides and policies to reflect the acceptance of a Self-Declarative Statement in lieu of other evidence of ownership in certain situations and regions, such as the insular areas (Puerto Rico). However, during the 2020 earthquakes in Puerto Rico they again made no meaningful effort to inform disaster survivors of the alternative documentation for home ownership.

What has happened instead is that FEMA has focused their outreach resources on a [recoupment process](#) against households who FEMA claims received money they should not have, even when the error was the fault of FEMA and not the individual, or when it was a simple issue of missing paperwork that could still be submitted. Once again, FEMA communication with individuals in this process has been in English, which individuals targeted can not understand and respond.

In February 2018, Centro de Periodismo Investigativo reported that [more than 60%](#) of the individual assistance applications were denied or still in process, with no available data to explain the basis of denials, and no transparency or effective communication to know the status of pending applications. In August 2018, [El Nuevo Día reported that 79%](#) of appeals were also denied. Denials coupled with complicated appellate procedures drained the hope of the disaster survivors who many times gave up on the assistance. One homeowner in Orocovis was denied assistance twice because FEMA claimed her home had not sustained enough damage, though when HF visited her home only two walls were standing. Without the free legal assistance she received to appeal a second time she would have received nothing.

Also of note, the PBS FRONTLINE report also compared the average FEMA Individual Housing Assistance awards in Texas, Florida, and Puerto Rico. Again, it found significant differences especially between Texas and Puerto Rico, where the averages were \$6,980 and \$2,974. FEMA uses market values as part of the equation to determine awards, meaning wealthy communities often receive more than poor communities. HF provided assistance to poor homeowners in Puerto Rico who had received just \$3,000 from FEMA and were expected to replace their damaged roofs with that. Through our projects, we found the average for a simple roof replacement was between \$10-15,000. FEMA suggests individuals should cover the cost difference, without consideration for equity and the individual's actual capacity to do so.

[The New York Times recently reported](#) on research that shows not only is there a wealth bias, but also a race bias in individual housing assistance awards across the US. Given that low-income, people of color and immigrants are among the most likely to live in frontline climate change communities, which includes all of Puerto Rico, FEMA must urgently re-examine and reform this program.

IHP - Transitional Sheltering Assistance:

FEMA also provides families with temporary financial assistance to shelter in hotels, through the transitional sheltering assistance program (TSA). [On October 23, then Governor Roselló](#) had still not received a response from FEMA as to whether or not these housing funds could be used for the thousands of families displaced to the 50 states. Once confirmed, constant aggressive advocacy was

required by groups like Hispanic Federation in Florida, New York and other states where large numbers of people had relocated, just to ensure the vital housing assistance was renewed by FEMA every three months. However, in the previously cited September 2018 GAO report, they make clear that finding housing in Puerto Rico was difficult even for government officials, [“Further, federal, state, and local officials faced challenges finding temporary housing for disaster survivors given the extensive damage to available housing in each location. For example, given the widespread damage in Puerto Rico and lack of hotels and other temporary housing, FEMA transported survivors to the mainland United States to stay in hotels.”](#)

These limited funds barely covered the cost of shelter in places like Florida, Connecticut and New York, which were all facing an affordable housing crisis. Families struggled to cover basic expenses. In [December 2017, New York Disaster Interfaith Services](#) estimated that approximately “5,000 new Puerto Rican and US Virgin Island residents in New York currently had unmet needs in terms of basic clothing and household supplies – and that number is expected to increase during the next 6-12 months as more individuals arrive.”

In February 2018, while Puerto Rico was still in a full-blown state of emergency and before any large-scale housing repair programs had begun, [the New York Times reported](#) that “nearly 4,000 families spread across 40 states and Puerto Rico remain in hotels under FEMA’s transitional sheltering assistance program, federal officials said. Most families — more than 1,500 — were in Florida, while hundreds of others were in Connecticut, Massachusetts and New York. More than 800 were in hotels in Puerto Rico.” However, in the same article, William Booher, a FEMA spokesman, stated in defense of the termination of the program that “survivors are responsible for their own recovery and to actively look for permanent housing solutions.” Given the high poverty of displaced families, their language barriers, the unfamiliarity with US social systems, the lack of affordable housing in these US states, and the crisis in Puerto Rico, this statement shows the crass disconnect between FEMA and the realities of survivors from Puerto Rico.

Much later, during public forums in Florida where Hispanic Federation was in attendance, FEMA officials admitted they were not properly prepared and lacked the staffing capacity and Spanish-speaking staff necessary to properly support displaced families as they arrived in Florida and transitioned into the community. Hispanic Federation and partner nonprofits had to step in to provide families with welcome centers, emergency food and rental assistance program, job training, English courses, and orientations to US social systems to help ease their transition, but private resources cannot compare with what should have been provided by FEMA.

IHP - Tu Hogar Renace:

Another alarming individual housing assistance program was Tu Hogar Renace, the local name given for FEMA’s Sheltering and Temporary Essential Power (STEP) program. At a cost of \$1.2 billion, the program was designed to make quick and simple repairs to 120,000 homes across the archipelago. This program did not begin until five months after the hurricane and has received more than [11,000 complaints](#) from participants, housing advocates, and even the programs own subcontractors. Many of the repairs were poorly executed, incomplete, and had to be redone by nonprofit groups and others.

The program contracted seven large companies to lead the repairs, who then subcontracted to smaller companies, who then subcontracted again to smaller companies. As a result, costs skyrocketed. In a [New York Time review of the program's expenditures](#), they found, "Extravagant markups, overhead and multiple levels of middlemen have helped lead to huge costs in the FEMA-financed repair program.... more than 60 percent of what FEMA is spending in the program, the largest emergency housing program in the agency's history, is not paying for roofs, windows or doors... Instead, it is going toward overhead, profit and steep markups." Examples provided in the article include a door worth \$50 billed to FEMA at \$700, generators purchased for \$800 were billed at \$3,700 each, and roofing repairs completed by subcontractors for \$1.64 per square foot was charged to FEMA for almost \$4.

The New York Times article also raised questions about some of the US contractors selected for the program. Adjusters International, run by former senior FEMA official Daniel A. Craig, who was also the Trump administration's nominee to be deputy director of FEMA, received a \$202 million contract to manage the overall program. Excel Construction, based in Louisiana, donated \$100,000 in 2016 to Trump Victory, a joint campaign fund-raising committee.

Despite the high cost charged by contractors, much of the work completed through the program was shoddy quality and had to be redone by nonprofit organizations. [In a report by the Centro de Periodismo Investigativo](#), they highlight the challenges faced by more than a dozen nonprofit organizations who have had to raise private funds to execute repairs of the construction flaws in the Tu Hogar Renace program. Amárilys Pagán, Executive Director of Proyecto Matría, described "last year, part of what we had to do was go back over the repairs of Tu Hogar Renace to then do them well." Proyecto Matría has repaired more than 20 homes in Orocovis. However, they do not count on the million-dollar federal contracts and instead rely on private donations. Hispanic Federation provided funding to Proyecto Matría and a dozen other organizations to repair homes, including fixing the many mistakes of this FEMA program. This duplication of resources and services could have been avoided if FEMA had ensured the effective and efficient use of the federal resources in Tu Hogar Renace.

This duplication is not just happening with private funds, but also wasting other federal funds. [Omar Marrero, former director of COR3](#), admitted that the work completed through the program was insufficient and that homes "repaired" through Tu Hogar Renace would be prioritized for repairs in the CDBG-DR housing program, Reconstruct, Repair, and Relocate (R3).

FEMA Public Assistance Program

FEMA's public assistance (PA) program works in partnership with Puerto Rico to provide funds to rebuild damaged infrastructure and restore services. FEMA-PA grants funds to state agencies, municipalities, and private nonprofits. As of December 2021, \$25,554,790,243 in PA funds had been allocated and obligated, but only \$4.72 billion or about 18 percent has been disbursed.

Part of the reason this funding has been so slow to use was FEMA's use of a unique, bureaucratic process for the disbursement of funds, under [Section 428](#) of the Stafford Act. This process included requiring a fixed cost estimate for 100 percent of permanent work. As reported by [Center for a New](#)

[Economy](#), “the alternative procedures approved for Puerto Rico does not allow FEMA to accept estimates made by the applicant. Instead, the estimates must be done by professionals licensed by FEMA. This, too, is different from FEMA’s treatment of the states.” While this Section 428 procedure has been used elsewhere, the [US Government Accountability Office Report 18-472](#) explained that in the US Virgin Islands and other states the alternative procedure will only occur for selected permanent work projects. In contrast, in Puerto Rico it applied to all large permanent projects. In meetings between HF and employees of COR3, they expressed frustration and concerns with the limitations of the fixed cost estimates, as well as how it slowed the recovery process.

In addition, the [reimbursement requirement](#) of the PA program represents a huge barrier for the disbursement of the funds, since most of the 78 municipalities do not have enough money in their budgets to start the infrastructure projects. At the same time, the fact that the application process is in English created a language access barrier for municipalities in which most of their staff speaks mainly Spanish. The same could be said for nonprofits interested in participating in the program.

With regards to FEMA’s matching funds/cost share requirements, on [September 25, 2017, eight members of Congress wrote to Elaine Duke, then Acting Secretary of US Department of Homeland Security, and requested](#) a waiver of FEMA matching requirements for Puerto Rico. They rightly explained that “Puerto Rico’s current economic conditions have already pushed the local government’s financial resources to the breaking point. Requiring cost-sharing during this critical time could take local resources away from providing the essential services many citizens need.” Later, in a meeting in early 2018 between Hispanic Federation and COR3, the agency staff affirmed they had also requested a waiver that had not yet been approved. As of today, Hispanic Federation is unaware of any approval by FEMA to waive its matching funds requirements.

This follows a pattern across the federal government. During a public forum hosted by Enterprise Community Partners on April 26, 2018, Hispanic Federation asked former Secretary of the PR Department of Housing, Fernando Gil, if they had requested a waiver to HUD’s matching funds requirements, and he answered that he did not ask for a waiver to this requirement because HUD had already informed him that it was not an option for Puerto Rico.

FEMA Hazard Mitigation Program

The FEMA Hazard Mitigation Grant Program focuses on risk reduction and the protection of life and property from future hazard events. It is also open to state, city and local governments, and nonprofit entities. As of September 2021, four years after hurricane Maria, [only 19 of 592 proposed mitigation projects have been approved](#). This is further evidence of the slow implementation of the program in an island that is constantly vulnerable to future disasters. Hispanic Federation responded to COR3’s 2019 invitation for letters of intent (LOI) with a proposal and completed registration in the DRS systems, but to date has not received a response denying or approving the submitted (LOI).

Like the PA program, participating in the mitigation program requires applicants to be reimbursed for project expenses, match 20 percent of the grant funds, and apply for the funds online in English. These barriers make it impossible for many entities and communities who need the funds to apply. For

example, the 243 communities that depend on community aqueducts for water faced these and other significant barriers in applying for and receiving mitigation funds to address their water access risks. Most were unable to apply directly for the funding.

FEMA data access and transparency

Good data is a critical tool for effective planning and decision making, as well as for evaluating effectiveness and impact. However, [FEMA has constantly resisted data transparency](#), and has held back important information necessary to support the recovery efforts in the Island. For example, FEMA should develop and publish their Individual Assistance Program damage assessment data in a community-scale format as well as the data collected by their case managers. Together, this data should be used for effective program design to achieve an equitable distribution of recovery funds. Hispanic Federation met with FEMA's Community Planning Department and GIS staff in 2019 during which HF offered recommendations on concrete methodologies to do so. However, to date none of the data requested has been published to HF's knowledge.

A tragic consequence of FEMA's bureaucracy and opaqueness was the unnecessary suffering and possible loss of life of hurricane survivors with disabilities. Movimiento para el Alcance de Vida Independiente (MAVI) is one of Puerto Rico's premier nonprofits advocating for and supporting people with disabilities. Immediately after Maria, MAVI began requesting FEMA provide them with their available data that could assist in identifying survivors with disabilities so MAVI could collaborate in providing the most vulnerable with emergency relief and services. FEMA at first denied the request claiming confidentiality prevented it. At MAVI's insistence, they determined the data could be shared if MAVI entered an MOU with a government agency. MAVI complied, however FEMA still did not provide the information until 6 months¹ after the disaster. By then it was too late. [Multiple independent studies estimate that upwards of 3-4 thousand people died in the first six months after Hurricane Maria from the lack of electricity, clean water, access to healthcare, among other Hurricane related reasons.](#) Many were people with chronic health problems and disabilities such as diabetes, who might be alive today had they received the emergency aid they needed in time.

Energy infrastructure and FEMA funding

Hurricane Maria made clear the direct connection between energy and saving lives. The complete and prolonged failure of Puerto Rico's energy grid after the Hurricane has been cited as one of the causes for the high loss of lives after Hurricane Maria and the ongoing instability of the electric grid continues to hamper the recovery and put more lives at risk. Numerous studies, such as [Sol + Techos](#) (2020) and [Achievable Renewable Energy Standards](#) (2008), have shown that one of the best ways for Puerto Rico to build a robust, resilient, efficient, and climate smart energy infrastructure is through the installation of decentralized, rooftop solar energy systems with battery storage. In addition, this type of infrastructure can reduce the cost of energy to consumers and improve access of the most vulnerable households. The findings in these reports align with Puerto Rico's legislatively mandated energy goals

¹ During the December 10, 2021 USCCR Public Hearing in San Juan, Puerto Rico, Charlotte Gossett Navarro, representing Hispanic Federation, mistakenly stated that the data was not provided until nine months after Hurricane Maria. The correct number is six months.

established by the bipartisan Law 17-2019, to achieve 40 percent renewable energy by 2025 and 100 percent renewable energy by 2050.

FEMA has allocated approximately \$9.4 billion to the reconstruction of Puerto Rico's energy grid and must ensure that these funds are used to achieve Puerto Rico's energy policy Law 17-2019. Among other things, the responsible use of these federal funds must prioritize renewables, energy efficiency, and solar energy with storage based on rooftops. FEMA should not approve any proposals in which renewables are merely incidental to the overall program - they must be central in any plan funded by federal dollars. However, [FEMA is seemingly promoting](#) the PR Electric Power Authority's 10-year infrastructure plan, which has no concrete strategy to comply with said legislative mandates. FEMA's indifference to comply with Law 17-2019 goals will compromise Puerto Rico's resilience to future disasters.

FEMA flood maps

FEMA's current official flood maps date from 2009 (FIRM Maps). These maps are adopted by the Puerto Rico Planning Board (PRPB) with the purpose of working with the National Flood Insurance Program and private insurance companies. After hurricane María, in early 2018, FEMA and the PRPB developed the Advisory Base Flood Elevation Maps (ABFEs) through a spatial analysis based on a new hydrology model with the intent of expanding flood zone layers. The PRPB clarifies that the [maps do not replace current effective FIRM Maps for insurance-related matters](#). It is our understanding that these preliminary maps are not intended to be used on public policy or construction decisions, until a full analysis is completed, and new FIRM maps are adopted. However, Puerto Rico's government is [currently using these ABFE maps](#) to determine public policy and construction decisions that hinder communities access to federal funding and assistance in the recovery of their communities. Both the science and decision-making behind the adoption process of the ABFEs has been called into question.

Among several concerns are the following:

The accuracy of the information layers may not reflect the reality the population faces. Elevation layers in Puerto Rico are [based on a 1957 USGS survey](#). Nature, terrains, water bodies, human settlements, infrastructure and climate behavior have gone through significant changes in the subsequent years. The new hydrology study for the development of the ABFEs didn't update any of these layers, which would be the minimum responsible process before using them to make policy and construction decisions. These maps are being used to deny thousands of households and communities assistance and eligibility in programs such as the [CDBG-DR R3 housing program](#). The R3 program denies reconstruction of homes in designated 100-year floodplains determined by the ABFE map.

The methodology used to design the ABFEs only included the [In-Place Flood Management Infrastructure](#) certified by the US Army Corp of Engineers (USACE). Yet, it left out of the analysis a lot of existing infrastructure that is not certified by the USACE. [Infrastructure left out of the analysis includes](#): all drainage, all gutters, contention walls, and even water channels such as the channelization of the Bayamon River that has been up and running for over 40 years.

The estimate produced by the [Puerto Rico Planning Board identifies over 250,000 structures](#) (an estimated population of 600,000) in designated flood zones, which are mostly of residential use. Today, the government still does not have an accurate estimate of how many potential families or structures could be wrongfully designated as flood zones nor how many families have been denied help on the basis of improper flood zoning.

Historically, risk prone areas have been populated by marginalized communities in response to the lack of housing options for low-income populations. Given the real impact these maps have on individuals and communities, there should be a standard process created for impacted communities and residents to question and appeal flood zone designations, as well as technical assistance and orientation for communities. FEMA does not currently offer this.

FEMA contracting

Prior to Hurricane Maria, Puerto Rico was in a financial crisis. The disaster exacerbated the economic challenges at all levels, and in particular local businesses suffered major losses but were resilient and began operating as quickly as possible. The federal contracts available through the disaster relief funds are an important opportunity to quickly invest back into local businesses, stabilize their operations, and stimulate the affected economy.

This seems to be the clear intention of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.). [Section 307 of the Stafford Act, Use of Local Firms and Individuals \(42 U.S.C. 5150\)](#), states that “[i]n the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, **preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.**”

Title 48 of the Code of Federal Regulations reinforces this preference in [Section 26.202 Local Preference](#), which states “[w]hen awarding emergency response contracts during the term of a major disaster or emergency declaration by the President of the United States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121, et seq.), **preference shall be given, to the extent feasible and practicable, to local firms. Preference may be given through a local area set-aside or an evaluation preference.**” Unfortunately, in the case of Puerto Rico these laws and regulations seems to have been ignored and preference given to companies based in the 50 states.

The [Center for a New Economy](#) published a report in September 2018 titled, Transforming Recovery into Locally-Led Growth, in which they explained “[t]he Federal contracts expenditure data examined thus far demonstrates that the bulk of Federal spending for both relief and reconstruction efforts is not flowing into Puerto Rico-based businesses, and therefore not doing much to pave the way towards an economic upturn.” In their report they specify, “[i]t should be noted that while the Department of the Army has allocated around 10.8% of total awards to Puerto Rico contractors, **FEMA’s share is less than 8%**. In fact, of the 45 Federal agencies that have contracted recovery work pertaining to Hurricane María, 24 did not

award any contracts to Puerto Rico-based firms.” A deeper analysis on the types of contracts awarded showed,

“Puerto Rico-based firms have been mostly hired to perform lower value added (although not unimportant) activities such as: waste collection, security services, roofing, and petroleum wholesale.... Many of the tasks undertaken by Puerto Rico-based contracted firms are important for relief efforts, but their ability to render long-term economic benefits is limited compared to resilient infrastructure reconstruction activities, high value-added manufacturing, or scientific research. There are also other negative consequences tied to favoring mainland firms so heavily over local firms. Hiring a greater number of local firms for a longer period of time could provide learning and capacity building opportunities for many of these actors, which could improve their ability to respond and provide their goods and services in the future—in Puerto Rico or elsewhere across the globe.”

Examples of problems that arose with non-local firms FEMA contracted are shared throughout this document. Hispanic Federation has funded repairs and reconstruction on more than 400 homes across Puerto Rico. HF worked with a dozen local non-profit organizations who managed the projects, and each hired local contractors and used local suppliers to complete the work. There are capable local firms in Puerto Rico if FEMA wanted to find a way to work with them.

FEMA and nonprofit organizations

Despite the significant role played by Puerto Rico based nonprofit agencies and community-based organizations (local NPOs) after Hurricane Maria, and each disaster since, it is challenging for local NPO's to collaborate with FEMA and participate in grant and contract opportunities.

Similar to issues described in the contracting section of this document, FEMA seems to [give partnership preference](#) to national, large-scale, nonprofit organizations – many of whom bring national disaster response experience but have little to no experience in the local region and lack understanding of the local context. In the case of Puerto Rico, many national disaster response organizations arrived in Puerto Rico and secured FEMA partnerships and lucrative grants and contracts, but lacked cultural, geographic, and language competency to quickly be effective in Puerto Rico. Meanwhile, hundreds of Local NPO's who were acting as first responders, emergency relief, and leading recovery projects, were left in the dark on how to connect, communicate and partner with FEMA, access FEMA data, secure FEMA grants and contracts, navigate the technical requirements and processes to receive reimbursements for their efforts from FEMA. Local NPO's struggled to raise the private philanthropic funds needed to fill the major gaps in the government's emergency response.

FEMA requires local NPO's to formally collaborate with local/state government in order to be eligible for certain programs, partnerships, and reimbursements. This wrongly assumes that the local/state government is open and interested in these collaborations, that otherwise qualified local NPO's have access and positive rapport with the administration in power at the time of a disaster, and that the local/state government will always be acting in the best interest of the most vulnerable people. None of these assumptions were true after Hurricane Maria.

FEMA's focus on national nonprofit partnerships also meant that as with their private for-profit contracting, much of the FEMA funds left Puerto Rico for administrative and overhead costs in the US and for an imported, temporary workforce that was also external to the region. Yet again, this was a missed opportunity for local economic recovery and long-term capacity building.

In addition, FEMA's matching/cost share requirements and reimbursement system prevented many local NPO's from participating in grant and contract opportunities.

FEMA language access violations

Languages Access rights are federally protected under Title VI of the US Civil Rights Act of 1964, as part of the protections from discrimination based on national origin. In 2000, former [President Clinton signed an executive order](#) requiring **federal agencies and those receiving federal financial assistance to develop and implement systems to ensure meaningful access to services for Limited English Proficient (LEP) individuals** based on a four factor analysis developed in [guidance from the Department of Justice](#). The four factors are (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/ recipient and costs.

By this analysis, any reasonable person would conclude that FEMA disaster relief and recovery programs are subject to ensure meaningful language access to their various programs and services, especially in Puerto Rico. According to the September 2018 GAO report, FEMA has also been clear since at least 2014 on the language access needs in Puerto Rico. The GAO report states "[According to FEMA's \[2014\] Region II Hurricane Annex, information in Puerto Rico must be conveyed in Spanish—which is the main spoken and written language. However, in the aftermath of Hurricane Maria, FEMA did not have enough bilingual employees to communicate with local residents or translate documents. According to FEMA officials, this resulted in further delays while staff were reshuffled from other disasters to Puerto Rico.](#)"

However, despite their own 2014 preparedness planning as detailed throughout this document, FEMA failed to ensure language access for Puerto Ricans to in the various Individual and Households Assistance Programs and in accessing the Public Assistance and Mitigation programs. This has serious implications not just for Puerto Ricans, but other LEP individuals living in the US and territories. LEP individuals in the US are often low-income, people of color, and immigrants; three groups highly likely to live in communities most under threat of climate change disaster and therefore most likely to come into contact with FEMA. Language access rights must be protected, and FEMA must be obligated to address this dangerous situation and possible civil rights violation.

IV- Initial recommendations to advance equity in FEMA's disaster response

The concerns shared throughout this document include some that are unique to Puerto Rico as well as systemic issues that have long been raised by low-income and other historically marginalized communities across the US. [Research](#) continues to show how disasters widen [inequality](#) and that FEMA's [biased policies and practices](#) are [part of the reason](#). Recently, the Biden administration has [begun addressing equity issues](#) within FEMA and [specific disaster relief programs](#), however the changes do not

go far enough to offer justice for previous disaster survivors, nor to ensure the effective and equitable implementation of disaster assistance during future emergencies.

The [recently announced](#) new FEMA definition of equity is, “[t]he consistent and systematic fair, just and impartial treatment of all individuals.” In a comprehensive [November 2020 report](#) to the FEMA Administrator by the agency’s National Advisory Council (NAC), they define equity as “to provide the greatest support to those with greatest need to achieve a certain minimum outcome.” By their own definitions, Puerto Rico was clearly not treated equitably in the response to Hurricane Maria.

In the same November 2020 report, the NAC write, “Under Federal civil rights laws and the Robert T. Stafford Disaster Relief and Emergency Act (Stafford Act), FEMA, State, local, Tribal, and Territorial (SLTT) partners, and non-governmental relief and disaster assistance organizations engaged in the “distribution of supplies, the processing of applications, and other relief and assistance activities shall [accomplish these activities] in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, [national origin], sex, age, disability, English proficiency, or economic status.” Civil rights laws and legal authorities remain in effect, and cannot be waived, during emergencies. **It is the opinion of the NAC that FEMA does not meet the equity requirements of the Stafford Act.**”

A 2021 Harvard Law School report, [An Analysis of FEMA’s Legal Authority to Integrate Equity under the Stafford Act](#), argued “the Stafford Act’s nondiscrimination provision provides the statutory authority for FEMA to redesign its programs in an “equitable and impartial manner,” including reforming programs that currently disproportionately exclude low-income communities and communities of color. Furthermore, the act’s discretionary function exception gives FEMA **extraordinary flexibility** in deciding how to integrate equity considerations by shielding most FEMA rules, policies, and other decisions from judicial review.”

In [August 2021, Hispanic Federation joined with other leading Latino organizations in a letter](#) to President Biden and members of Congress calling for, among other things, **greater oversight to ensure FEMA does not perpetuate inequality**. Among our recommendations were, “**create an "equity standard" by which to judge whether grants increase or decrease equity over time**. Some means by which to achieve this include: **identifying and incorporating equity-based performance measures** into the process, **disaggregating data** by race, ethnicity, and income, and **incorporating social and physical determinants of health—as defined by CDC and Healthy People 2030—into funding decision-making matrices**. FEMA should also **assess the current process of distributing mitigation and preparedness funds to determine which policies, regulations, and legislation need to be revised so the outcomes are more equitable.**”

These asks amplify some of the equity recommendations laid out by the NAC in [their November 2020 report](#). The report lays out additional important recommendations to address equity, staffing, preparedness, coordination and response that if implemented well could make a dramatic improvement in future disasters. Worth noting is the limited representation of the US territories on the National Advisory Committee, despite our unique needs and high disaster risk. Puerto Rico and Guam each hold one seat, with no other territories represented.

FEMA must be proactive in recognizing and addressing Puerto Rico's unique and precarious circumstances across all their programs.

Additional recommendations for FEMA in Puerto Rico include, but are not limited to:

- **Address language barriers:** Hire and train sufficient Spanish language fluent staff across all levels of the agency and ensure information and applications for all individual and public assistance programs are available in Spanish and can be submitted in Spanish. FEMA should do the same for languages spoken in other high-risk regions across the US and territories and by large immigrant populations.
- **Address cultural and legal barriers:** Provide training to staff before they are deployed on Puerto Rico's unique cultural context, particularly on distinct housing and planning norms, legal norms, political norms, and key demographics.
- **Identify local vendors for emergency supplies:** Proactively identify local distributors who can provide needed supplies such as food, water, and personal care items.
- **Provide nutritious, culturally competent meals:** FEMA must take health disparities and cultural norms into account when determining what food/meals should be sourced and distributed.
- **Address unique evacuation and housing needs of survivors:** FEMA must develop a preparedness plan that considers the logistical and economic challenges faced when evacuating Puerto Rico (an archipelago) to any of the 50 United States. The plan must include strategies to support the return of evacuees to Puerto Rico once it is safe to do so.
- **Adapt to the scale of local private sector in contracting:** Proactively identify and give preference to qualified local companies, especially local MWBEs/nonprofits who can be contracted in the relief and recovery effort. This may require offering a greater number of small contracts, rather than a few large contracts, easing some requirements, such as bonds, and providing more capacity building and technical assistance. This preference for local companies is not only required by law but will also build local capacity for future disasters and help the economy recover.
- **Waive matching requirements:** FEMA should automatically waive matching requirements for all their programs when deployed in economically distressed regions, such as Puerto Rico. This is especially important to ensure the participation of local nonprofits and community groups in the recovery efforts.
- **Waive reimbursement requirements:** FEMA should automatically waive reimbursement requirements and advance funds for all their programs when deployed in economically distressed regions, such as Puerto Rico. This is especially important to ensure the participation of local nonprofits and community groups in the recovery efforts.
- **Base award on need and not damage assessment/home value:** FEMA should factor in the unique economic and health needs of a household when determining awards. People with

greater recovery needs should receive more. This recommendation is detailed further in the NAC report.

- **Create a process to appeal flood zone designations:** FEMA should create a standard process for impacted communities and residents to question and appeal flood zone designations, as well as technical assistance and orientation for communities to understand the designations.
- **Promote climate and energy resiliency:** FEMA must ensure that the \$9.4 billion allocated for the energy grid are used to achieve Puerto Rico’s energy policy Law 17-2019. Among other things, the responsible use of these federal funds must prioritize renewables, energy efficiency, and solar energy with storage based on rooftops for the most vulnerable households.
- **Publish unmet needs/damage assessment data:** FEMA should publish their community-scale damage assessments in order for other public and nonprofit agencies working on the recovery to effectively identify the most impacted areas and achieve an equitable distribution of recovery funds. Currently, nearly ALL of Puerto Rico was designated as a “most impacted and distressed area.” This designation makes invisible the sectors of Puerto Rico that were most disproportionately impacted.
- **Promote the use of alternative evidence of home ownership:** FEMA should train all their staff in the alternative documents acceptable as evidence of an owner-occupied residence, especially the self-declarative statement accepted in Puerto Rico. They must also proactively inform and assist disaster survivors with their options.
- **Prioritize partnerships with local nonprofit organizations:** Proactively identify and build the capacity of local nonprofit organizations in Puerto Rico interested in supporting relief and recovery efforts after a disaster. Give local nonprofit organizations preference in contracts and grant awards and lift requirements that nonprofits collaborate with local/state governments.
- **Ease reimbursement process and requirements:** Ease the process and requirement for nonprofits and governments to request FEMA reimbursements for work/services they provided during and after a disaster.
- **Increase transparency in contracts and grant awards:** All contracts and grant awards should be made public.
- **Decentralize!! Decentralize!! Decentralize!!:** FEMA and the Puerto Rico government must develop a preparedness plan that decentralizes relief and recovery efforts, empowers municipalities, fully integrates local nonprofit and community-based organizations, and collaborates with the private sector.

V- **Conclusion**

FEMA must end systemic discrimination against Puerto Rico and achieve a just, resilient, and sustainable recovery for the archipelago’s current and future generations. We recognize the Biden Administration and many members of Congress share our concerns for equity and the protection of the civil and human

rights of every person that lives in Puerto Rico. However, concern must be met with sustained action and major reforms. Hispanic Federation reiterates our ongoing commitment to collaborate with this commission to advance civil rights and bring light to issues of fundamental concern to the federal government and the public.