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## FEMA MISSES CONGRESSIONAL DEADLINE TO ISSUE GUIDANCE ON CONTINUED HOUSING ASSISTANCE FOR HURRICANE VICTIMS

### Displaced Families At Risk

by Douglas Rice and Barbara Sard

FEMA has provided initial rental assistance payments to hundreds of thousands of families whose homes were damaged or destroyed by Hurricanes Katrina and Rita to help them secure temporary housing. Most of these families will exhaust these funds beginning in January and February, however, and FEMA has not issued clear guidance on whether, or under what conditions, it will continue to assist them. As a result, displaced families do not know if they will be able to count on FEMA's help over coming months. While not every family will need continued rental assistance from FEMA to maintain stable housing, many families will, given the job losses and economic devastation caused by the hurricanes.

Under federal law, FEMA may extend housing assistance to families for up to 18 months. Yet the policies suggested by current FEMA regulations are vague, inappropriate for families displaced far from home, and impossible to administer effectively in large-scale disasters. The uncertainty generated by the lack of clear guidance on continued housing assistance is therefore compounded by regulatory guidelines that are themselves problematic.

Acknowledging the pressing need for greater clarity on continued housing assistance, in late December Congress directed FEMA to issue guidance:

The conferees are concerned with the lack of guidance on housing assistance. *Within two weeks from the date of enactment of this Act, the Director of FEMA shall issue guidance used to determine continued eligibility for housing assistance under the Section 408 program.*

Consistent with current FEMA regulations, such guidance shall include the extension of assistance if the recipient is unable to afford local housing at the Fair Market Rent level.<sup>1</sup> (Emphasis added.)

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<sup>1</sup> Fiscal Year 2006 Appropriations Act for the Department of Defense and Other Purposes, H. Rpt. 109-359, p. 504.

To comply with this directive, FEMA should have issued guidance by January 13, 2006.<sup>2</sup> Yet FEMA has failed to do so, and has given no indication of when (or if) guidance will be issued.

Even after the guidance is issued, it will take at least several weeks for FEMA staff and contractors to receive and verify information on families' income, rental obligations, and previous payments for housing costs. FEMA's continuing delay in issuing the required guidance puts many families at risk of missing rental payments for January, February and possibly March. To avoid further instability in the lives of hundred of thousands of hurricane victims, FEMA should put in place an interim policy to provide additional housing assistance to displaced families which certify that they are in need of continuing rental assistance and provide documentation that they have appropriately used for housing costs the previous FEMA funds they received for this purpose.

### **Large Numbers of Displaced Families Are Likely to Need Continuing Rental Assistance to Maintain Stable Housing**

FEMA has provided temporary rental assistance payments to nearly 700,000 displaced households.<sup>3</sup> The majority of these families received an initial housing assistance payment of \$2,358 through an expedited procedure that FEMA announced on September 23. This payment was intended to cover rental costs for an initial period of three months. Displaced families began using this assistance to pay rents in October and November; as a result, most families will exhaust their initial rental assistance funds in January or February 2006.<sup>4</sup>

For a variety of reasons — including the job losses and economic devastation that resulted from the disaster, the widespread poverty that existed in the region before the disaster, and the separation of households from family and community networks on which they have relied for support — it is expected to take a substantial number of families longer to restore income and regain financial stability than it took in previous, smaller-scale disasters. As a result, a large number of the 700,000

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<sup>2</sup> The Fiscal Year 2006 Defense appropriations bill, which included appropriations for hurricane relief, was signed into law on December 30, 2005, becoming P. L. 109-148.

<sup>3</sup> Spencer Hsu, "Two Million Displaced by Storms," *The Washington Post*, January 13, 2006, p. A03. This figure includes only households that have received rental assistance directly from FEMA through the Individuals and Households Program, which provides cash assistance to families for housing and other basic needs. It does not include families in Texas and elsewhere receiving housing assistance indirectly through the Public Assistance Program, which reimburses communities for expenses related to emergency response and recovery activities. It also does not include families that are living in trailers or other housing provided directly by FEMA or households receiving disaster rental vouchers from HUD.

<sup>4</sup> For two reasons, some families will have exhausted the initial rental assistance before January. First, the initial assistance payment was based on the national average Fair-Market-Rent (FMR) of \$786/month. Some families, however, were displaced to areas where the local FMR is higher than the national average or have more than four members and require a larger-than-two-bedroom unit. These families are likely to exhaust their rental assistance before the third month. In addition, FEMA was slow to inform recipients of restrictions on the use of the assistance payments. In many cases, families received initial checks 2-3 weeks before they received notification from FEMA that the initial assistance payments were to be used to pay for housing costs only. As a result, some families used the funds to pay for other necessities, such as food and clothing. Acknowledging this problem, FEMA has announced that it will hold such families harmless in determining their eligibility for additional assistance. Nevertheless, these families will exhaust the initial assistance before the end of three months.

families receiving FEMA rental assistance are likely to require continuing rental assistance to maintain stable housing.

## **Without Clear Guidance, FEMA Cannot Administer Housing Assistance Effectively**

The unprecedented scope of the recent disasters has created enormous challenges for FEMA with respect to housing assistance. These challenges cannot be met in the absence of clear and appropriate guidance on eligibility for continuing housing aid. Yet to the extent that it exists, FEMA guidance is vague, inconsistent, and contains requirements that cannot be administered effectively in a disaster of this scale. For example:

- The printed guidance available to applicants indicates only that applicants may be eligible for assistance for up to 18 months and that recipients should keep receipts demonstrating how the housing payments they have received were used.<sup>5</sup> No additional information has been provided of the criteria for receiving assistance after the initial three months of aid are exhausted.
- Letters sent to those displaced families that were approved for an initial housing assistance payment state that a continuation of assistance would be conditioned upon the family documenting that it has made progress towards implementing a “permanent housing plan.” Yet no explanation of this vague requirement, or of what is meant by a “permanent housing plan,” has been provided. FEMA also has given recipients little guidance on the procedures for applying for continuing rental assistance.
- Internal FEMA documents show that inconsistent guidance on eligibility has been distributed to FEMA employees responsible for making eligibility determinations.<sup>6</sup>

In the absence of clear, uniform, and consistent standards for extending housing assistance, FEMA employees are likely to apply rules inconsistently and arbitrarily, which can lead to deserving families in some areas being denied assistance.

## **FEMA Regulations Suggest Eligibility Criteria Unworkable for Large-Scale Disasters**

FEMA regulations suggest criteria for extending assistance that are unrealistic and cannot be administered effectively in large-scale disasters. For example, the stated presumption of FEMA regulations is that the initial assistance payment will be sufficient for renters to secure permanent housing.<sup>7</sup> This assumption is not valid when a disaster is accompanied by the economic devastation and widespread dispersal of evacuees that has resulted from Hurricanes Katrina and Rita.

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<sup>5</sup> See “Help after a Disaster: Applicant’s Guide to the Individuals & Households Program,” available online at: [http://www.fema.gov/pdf/about/process/help\\_after\\_disaster\\_english.pdf](http://www.fema.gov/pdf/about/process/help_after_disaster_english.pdf).

<sup>6</sup> See, for example, FEMA memoranda dated September 19 and September 25, 2005, which provide conflicting instructions on determining eligibility for assistance for separate applications from members of the same pre-disaster household. (These memoranda are attachments D and G of the declaration of Michael Hirsch, Individual Assistance Branch Chief at FEMA, in the *McWaters v. FEMA* case.)

<sup>7</sup> See 44 CFR 206.114(b)(3).

In addition, FEMA regulations state that families must, at the time of the first recertification, demonstrate that they have established a realistic permanent housing plan as a necessary condition of receiving continued assistance. Given the great uncertainties that surround plans to rebuild in the disaster areas — and therefore the ability of families to return to their home communities — it is unreasonable at this point to require families to have established a permanent plan.

Finally, FEMA does not have the administrative capacity to evaluate the permanent housing plans of hundreds of thousands of families without delays that would cause great hardship for some. While this requirement may have been viable in smaller-scale disasters that affected only a few thousand households, FEMA does not have the capacity to complete such reviews expeditiously for the families displaced by the 2005 Gulf Coast hurricanes.

### **Lack of Clear Guidance from FEMA Places Families at Risk**

The lack of clear guidance for continuing assistance places many families at risk of hardship. Without clear guidance:

- The chances are increased that assistance to families will be improperly denied or delayed, thereby increasing the risk that they will lose their temporary housing and again be forced to move.
- Displaced families that have lost income and are struggling to regain stability have no security that they will be able to pay rent in coming months.
- Landlords will be increasingly reluctant to lease apartments to evacuees, fearing that these tenants will be unable to meet future rent payments.
- It may take longer for displaced families to regain financial stability and self-sufficiency. Housing stability is often a necessary precondition for a successful job search and progress towards self-sufficiency. If housing assistance is improperly denied or delayed to families that need it, it may take them longer to secure stable housing.

Media reports are already surfacing of displaced families facing eviction and other hardships because FEMA has failed to process their applications for continued assistance in a timely and accurate manner.<sup>8</sup> The number of such cases is very likely to increase in coming weeks as more families exhaust their initial FEMA housing assistance payments.

This wave of problems is only the first to be generated by the lack of clear guidance on continuing assistance. FEMA has announced its intention to transition hundreds of thousands of evacuees in Texas and other states from housing assistance provided by states and localities to FEMA rental assistance.<sup>9</sup> These families also will face uncertainty and hardship if FEMA does not issue guidance with clear standards for determining eligibility.

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<sup>8</sup> See, for example, Anna Varela, “Evacuees evicted as funds dry up,” Atlanta-Journal Constitution, January 17, 2006.

<sup>9</sup> These families have received housing assistance from cities such as Houston, which are reimbursed by FEMA through its Public Assistance program. FEMA announced initially that it would terminate this type of assistance as of March 1,

## **Conclusion**

To enable FEMA to provide continuing housing assistance expeditiously and fairly to displaced families, the assessment of each family's need for assistance must be streamlined and based on simple, objective criteria. The Congressional directive suggested that the most important factor be whether a family has the financial ability to pay for housing at the local Fair Market Rent (FMR).<sup>10</sup>

To ensure that continuing housing assistance is not improperly denied or delayed, it is critical for FEMA to issue guidance immediately that sets out clear standards for determining eligibility for continuing housing assistance based on families' ability to afford housing costs. In addition, in the period before FEMA can issue and implement such guidance, FEMA should expedite housing payments to displaced families that certify their continued need for housing assistance and that have made appropriate use of the housing assistance they have received from FEMA to date.

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2006, replacing it with rental assistance provided directly by FEMA. However, in response to strong criticism of this transition plan from local governments, evacuees, and landlords, FEMA has indicated it will delay the March 1 deadline.

<sup>10</sup> FEMA regulations also highlight financial ability as one criterion for extending housing assistance. See 44 CFR 206.114(a), 44 CFR 206.114(b)(3), and 44 CFR 206.111. In some letters sent recently to hurricane evacuees who have requested continued housing assistance, FEMA has indicated that, in the future, financial ability to pay for housing will be considered as one factor in determining eligibility for continued assistance. Specifically, the letter indicates that future requests for assistance will be approved only if 30 percent of the family's income is insufficient to pay for housing costs. (The letter does not define "housing costs.") Moreover, the letter indicates that FEMA will evaluate a family's first request for continued assistance based solely on rent receipts or other documentation showing that previous assistance was used properly. FEMA's practice therefore appears to be in agreement with the interim policy we are proposing. It is important to note, however, that FEMA still has not issued guidance on this policy, and we do not know whether FEMA is following this practice uniformly.