

Congress of the United States
Washington, DC 20515

April 24, 2020

The Honorable Chad Wolf
Acting Secretary
Department of Homeland Security
300 7th St SW
Washington, DC 20024

The Honorable Peter Gaynor
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20472

Dear Acting Secretary Wolf and Administrator Gaynor:

Our nation has been gripped by COVID-19 and the impacts have been felt across all of society. As FEMA continues in its role as the coordinating agency of the Whole-of-America response to COVID-19, it is critical that the needs of our most vulnerable communities are understood and addressed. Unfortunately, FEMA's past response to disasters has frequently been plagued by racial and socioeconomic disparities that could have devastating consequences if replicated during this pandemic.

On April 14, 2020, FEMA posted a Civil Rights Bulletin,¹ outlining efforts to ensure that FEMA's Civil Rights obligations are met during the agency's response and recovery to COVID-19. Although we appreciate this action, there is still cause for concern. The bulletin expressed that FEMA intends to lead a disaster assistance process that is "equitable and impartial" and without discrimination regarding a number of attributes, including race, age, and socioeconomic status – each of which have experienced disproportionately high rates of COVID-19 infection and unfavorable health outcomes – including death.²

Where data is available, it has shown that COVID-19 is disproportionately infecting and killing minorities across the nation. A study from the U.S. Centers for Disease Control and Prevention (CDC) found that 33% of hospitalized COVID-19 patients were Black, even though Black Americans make up only 13% of the U.S. population.³ These numbers are no doubt reflective of longstanding income and wealth disparities, reduced access to health care, and generations of environmental injustice that make communities of color – Blacks, Hispanics, and American

¹ <https://www.fema.gov/media-library-data/1586893628400-f21a380f3db223e6075eeb3be67d50a6/EnsuringCivilRightsDuringtheCOVID19Response.pdf>

² <https://www.npr.org/2020/04/15/834746342/how-covid-19-patients-are-affected-by-health-and-other-disparities>

³ <https://www.npr.org/sections/coronavirus-live-updates/2020/04/08/830030932/cdc-hospital-data-point-to-racial-disparity-in-covid-19-cases>

Indians and Alaska Natives, in particular – more vulnerable to the virus.⁴ These public health inequities will be exacerbated if the federal government does not explicitly address the unique needs of these communities.

An equitable response requires an understanding of historic discrimination and a proactive plan to ensure that aid and assistance are delivered equitably. Unfortunately, FEMA has a long history of providing inequitable disaster assistance that can devastate communities of color. The responses to Hurricanes Katrina, Harvey, and Maria were plagued by FEMA policy approaches that were not properly tailored to address the unique needs and circumstances of impacted communities – in addition to leadership missteps, poor communication, and bureaucratic delays.

In the aftermath of Hurricane Katrina, homeowners from communities impacted by historically racist housing policies were left without the federal buyout options typically offered to homeowners after disasters. Additionally, many of these homeowners were left without the ability to access federal assistance for land that was informally passed down from generation to generation – a common occurrence in cities like New Orleans and other African-American communities.⁵ In the case of Hurricane Harvey, the damage disproportionately impacted Black and Hispanic residents and those with lower incomes, yet these groups were less likely to qualify for FEMA assistance to rebuild their homes, further amplifying inequality in the recovery process.⁶ These same failures were repeated in Puerto Rico as an inept response and lack of understanding of the historical needs and unique context crippled the delivery of assistance on the island.^{7,8}

Since Katrina, FEMA has sought to correct its failures in communication, coordination, and response and incorporate lessons from the past into its current response strategy. Unfortunately, it is clear that disparities still exist and continue to impede the agency's response and recovery efforts, leaving our most vulnerable communities without the help they need time after time.

This history is particularly concerning as it relates to COVID-19, because this public health crisis is far more complex and requires FEMA to coordinate with the Department of Health and Human Services (HHS), the Department of Defense (DOD), the U.S. Army Corps of Engineers (USACE), and a variety of other federal agencies. While we acknowledge that past failures predominately occurred in the delivery of Individual Assistance and the current federal response to COVID-19 is through the Public Assistance program, the magnitude of this crisis demands that FEMA address the unique needs of communities of color.

⁴ <https://www.kff.org/disparities-policy/issue-brief/communities-of-color-at-higher-risk-for-health-and-economic-challenges-due-to-covid-19/>

⁵ <https://www.facingsouth.org/2018/09/recent-disasters-reveal-racial-discrimination-fema-aid-process>

⁶ <https://www.facingsouth.org/2018/09/recent-disasters-reveal-racial-discrimination-fema-aid-process>

⁷ <https://www.facingsouth.org/2018/09/recent-disasters-reveal-racial-discrimination-fema-aid-process>

⁸ <https://www.npr.org/2018/03/20/595240841/unable-to-prove-they-own-their-homes-puerto-ricans-denied-fema-help>

As it stands now, lawmakers are not able to monitor whether FEMA's decision making is equitably addressing community needs, as the agency refuses to be transparent in how it is making decisions about where critical resources go and the specific guidance being provided to local and state entities in charge of distributing resources and aid. In order to ensure that FEMA and its partners are able to meet the needs of the most vulnerable, we request that you address the following questions and concerns:

1. Is FEMA tracking whether and how entities receiving aid are disbursing resources within their communities based on race, income, and rates of COVID-19 infection?
2. What has FEMA proactively done to ensure that minority communities and low-income communities will not experience a disparate response in the allocation of public assistance, similar to what members of these communities experienced when seeking individual assistance from FEMA?
3. If patterns of inequitable and disparate response have already begun emerging, what steps does FEMA plan to take to remediate them?
4. Is FEMA providing or planning to provide guidance to local and state entities regarding the delivery of testing and personal protective equipment (PPE) for communities at the greatest risk of COVID-19 due to underlying health problems, lack of access to health care, and/or heightened exposure due to the nature of their work?
 - a. If so, what metrics has the agency recommended that these entities use in determining which communities have the greatest need?
 - i. Does the guidance include, or is it expected to include, prioritization of communities at greatest risk as an objective?
 - b. If the agency is not planning to issue guidance, why not?
5. How is FEMA tracking the various requests coming in from states, tribes and territories, and how has it coordinated the prioritization and fulfillment of these requests with other federal agencies?
6. What oversight is FEMA conducting of medical supply distributions by the private sector to ensure that resources are going to communities regardless of ability to compete on the open market?
7. What oversight is FEMA conducting of private health care networks to ensure that resources are going to communities most in need?
8. We understand that FEMA is using a proprietary model to identify hotspots for the distribution of resources. How is race, age, socioeconomic status, and historic need incorporated in to the model and/or subsequent decision making?

- a. What types of data are driving the model and how are decisions being made after the output is interpreted?
9. A civil rights complaint can be filed when applicants or contractors, or their representatives believe that discrimination has occurred in awarding or receiving FEMA funds, services or benefits.
 - a. Since 2005, how many civil rights complaints has FEMA received?
 - b. How many are complaints that involve some form of race-based discrimination?
10. FEMA's recent Civil Rights Bulletin mentioned that in the COVID-19 response, FEMA seeks to "ensure meaningful involvement of minority communities and low-income populations in the development and implementation of policy decisions impacting the environment during response and recovery."
 - a. How does FEMA plan to do this and what specific steps have been taken to date?
11. A Racial Equity Impact Assessment (REIA) is an examination of how different racial and ethnic groups will likely be affected by a proposed action or decision. They can be used in various contexts across the emergency management continuum to prevent institutional racism and to identify options to remedy inequities.
 - a. Has FEMA conducted REIAs on any of its policies related to disaster aid and recovery?

Your attention to this issue is urgent and we request a response back within 7-business days, by May 1, 2020. Thank you.


Sincerely,



KAMALA D. HARRIS
United States Senator



MARCIA L. FUDGE
Member of Congress



GARY C. PETERS
United States Senator



CEDRIC L. RICHMOND
Member of Congress

/s/
CHARLES E. SCHUMER
United States Senator

/s/
GREGORY W. MEEKS
Member of Congress

/s/
BERNARD SANDERS
United States Senator

/s/
BOBBY L. RUSH
Member of Congress

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SHELDON WHITEHOUSE
United States Senator

/s/
AYANNA PRESSLEY
Member of Congress

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BENJAMIN L. CARDIN
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VAL B. DEMINGS
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Member of Congress

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MIKE THOMPSON
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JAHANA HAYES
Member of Congress

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SYLVIA R. GARCIA
Member of Congress