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Testimony of:

Charles S. (Charlie) Stone  
Executive Director  
State of Texas  
Office of Rural Community Affairs

Hearing on:

“The Role of the Community Block Grant Program in Disaster Recovery”

Committee on Home Land Security and Governmental Affairs  
Ad Hoc Subcommittee on Disaster Recovery  
United States Senate

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## ***Texas' Experience***

Chairwoman Mary Landrieu, Ranking Member Graham, and Members of the Committee:

My name is Charles S. (Charlie) Stone, and I am Executive Director of the State of Texas Office of Rural Community Affairs (ORCA). ORCA has been designated by Governor Rick Perry as the lead State agency in Texas responsible for distribution of Community Development Block Grant funds for Hurricanes Dolly and Ike recovery. Thank you for inviting me to update you on these efforts.

Between 2005 and the present, Texas communities have experienced the impacts of **seven (7)** major storm events. From providing shelter to the evacuees from Katrina through the impacts of Humberto, Edouard and Gustav to the large-scale recovery efforts of Rita, Dolly and Ike, the State of Texas has attempted to improve service to communities and facilitate a rapid recovery. In a few days -- on June 1, 2009 -- we will begin another hurricane season with future impacts on our State still unknown.

The Office of Rural Community Affairs has played a crucial and growing role in Texas recovery efforts during the three most significant events of Hurricanes Rita, Dolly and Ike.

### **Reports from the Field, Current Status of Recovery Efforts - Hurricanes Rita, Ike & Dolly**

#### **Expenditures and Unmet Needs**

It is important to note that field reported assessments of damage and community needs are dynamic and reflect the timeframe in which they were performed subsequent to the disaster event. Recovery efforts for Rita, Dolly and Ike are at very different stages in damage assessment, appropriation of funds and implementation. However, based on the Texas Rebounds Report published by the Governor of Texas for the events, allocations to-date have met 61% of Rita needs and 4% (through the first round of funding) of combined Hurricanes Dolly and Ike needs, as illustrated below:

#### ***Katrina/Rita Housing Repair & Reconstruction and Critical Infrastructure Recovery Funding***

<b>TOTAL CDBG SUPPLEMENTAL APPROPRIATION</b>		
<b>Total Funding Appropriation</b>	<b>\$503,194,849</b>	<b>61%</b>
<b>Total Funding Needs</b>	<b>\$820,300,000</b>	<b>100%</b>
<b>Unmet Funding Needs</b>	<b>\$317,105,151</b>	<b>39%</b>

#### ***Dolly/Ike Disaster Recovery Funding All Categories***

<b>TOTAL CDBG FIRST ROUND SUPPLEMENTAL APPROPRIATION</b>		
<b>First Round Funding</b>	<b>\$1,314,990,193</b>	<b>4%</b>
<b>Total Damage Estimates</b>	<b>\$29,400,000,000</b>	<b>100%</b>
<b>Unmet Funding Needs</b>	<b>\$28,085,009,807</b>	<b>96%</b>



As reminder, recovery funding for Gustav and Edouard were provided solely from FEMA sources. In addition, communities affected by Hurricane Rita received CDBG funding in two allocations (Rita 1 awarded June 9, 2006 and Rita 2 awarded May 9, 2007). Of the two non-housing appropriations, 93% of the Rita 1 and 26% of Rita 2 have been expended. To date, 67% of Rita 1 and 15% of Rita 2 housing funds have been expended.

### **Lessons Learned**

In an effort to accelerate local project applications, ORCA hired the engineering firm HNTB to perform non-housing project assessments in the 29 most impacted of the 62 eligible counties. A project worksheet (PW) review was conducted to determine opportunities for FEMA Public Assistance and identify opportunities for additional funding to communities based on PWs completed by FEMA to date to maximize CDBG funding. HNTB identified \$18,900,000 in additional FEMA funds that could be reimbursed or an average increase of 13% per project. This suggests potential for greater efficiency and local benefit from a combined damage and project evaluation process.

### **Timelines**

The recovery efforts for Hurricane Rita illustrate the delays inherent in the current process and service structure.

- Three (3) months from the date of Hurricane Rita (September 24, 2005), Texas received Congressional appropriations for Rita 1 funding,
- Five (5) months from the date of the event, HUD placed the required notice in the Federal Register (February 2006).
- Nine (9) months from Hurricane Rita, Texas completed necessary citizen participation for HUD requirements and received HUD approval of the Action Plan (June 2006). In addition, expenditure of recovery funds was delayed by HUD policy interpretations on environmental reviews, project eligibility, and changes in FEMA's matching funds requirements.

Please see charts in **Attachment One** for details.

### **Elapsed Time for Hurricane Rita Recovery Efforts**

- 360 days to complete Davis-Bacon Act requirements for all contracts (1/2007 – 12/2007)
- 486 days to complete Environmental Review for all contracts - (9/2006 – 10/2007)  
685 days after event – First expenditure of Non-Housing funds (8/2007)
- 1,194 days after event – 88.8% of funds expended locally (12/31/08)
- Three years and seven months after the event 95.6% of funds expended locally (92 Non-Housing Projects funded, 94 Communities received Non-Housing funds) 5/2009

**In summary, the proposed changes to Title I, including the Stafford Act, that are currently before you would have accelerated Rita recovery efforts by at least 12 months.**

## Opportunities for Improvement

### Steps Toward More Effective Recovery Efforts

The proposed revisions to Title I that include the Stafford Act are responses to past challenges that prolonged the recovery process for affected communities. The Council of State Community and Economic Development Agencies (COSCEA) endorsed these revisions and have included them in their legislative priorities.

These changes would apply automatically to disasters with total damages estimated at or greater than \$1 billion and for the most part reflect the codification of waivers previously granted for recovery efforts after major storm events.

<b>PROPOSED REVISIONS TO TITLE I AND THE STAFFORD ACT</b>	<b>STORIES FROM THE REAL WORLD</b>
1. Suspend requirements related to labor standards for up to 12 twelve months from the date of the disaster.	The documentation of compliance with Davis-Bacon takes too long in a disaster and there is a shortage of construction workers available to work. Compliance with the federal requirements related to Davis-Bacon and related acts kept communities from finding contractors who had more than enough work on non-federal jobs. The City of West Orange had a contractor that almost walked mid project when Davis-Bacon requirements came into play because of burdensome administrative requirements.
2. Exempt from all environmental review procedures improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety.	Delays required by environmental review unduly delayed the expenditure of disaster funds. The determination of the level of environmental review for acquisition of generators took in excess of six (6) months to clear. This delay prevented communities from moving forward with purchase and installation of generators at least through the next hurricane season.
3. Revise use of funds principally benefiting low and moderate-income persons to be not less than 50 percent of the aggregate as codification of a waiver normally granted.	Since extensive damage to community development and housing affected those with varying incomes, lowering the requirement gives States greater flexibility to help entire communities recover more quickly. This waiver would allow the State to focus on those most in need of assistance.
4. Revise the comparable replacement housing requirements in the disaster area as codification of a waiver normally granted.	Allows substandard units to be removed as a result of the disaster that are a health and safety concern. This waiver allows the State to prioritize its funds to projects where they were most needed when people choose to not return to the affected area.



<p>5. Revise the timely expenditure of funds requirement that applies to the annual allocations as codification of a waiver normally granted.</p>	<p>If not implemented, it may take longer to obligate CDBG funds in a disaster situation due to the timing of completing damage assessments or interaction with other federal programs. This revision would avoid the loss of needed funds.</p>
<p>6. Revise restrictions to allow states to carry out activities directly rather than be required to distribute all funds to local government as codification of a waiver normally granted.</p>	<p>Allows the funds to move more quickly and to make use of entitlements that had CDBG experience. ORCA was able to work with the City of Port Arthur and Orange who are both entitlement cities. Their previous experience with CDBG helped those projects move much more quickly while still keeping the federal reporting to one grant. This also allows ORCA to work with for profit and not-for-profit organizations.</p>
<p>7. Revise procedures so that, in the event of a conflict between program funding sources, any disaster project funded by any federal assistance shall adhere to the CDBG requirements proposed herein.</p>	<p>USDA and FEMA have different rules for procurement, Davis-Bacon and environmental reviews. FEMA does not take advantage of the exempt level of environmental review for restoration and repair, does not follow the eight-step process related to work in a flood plain, and has another interpretation of compliance with Davis-Bacon Act. In projects where ORCA provided the match (i.e. FEMA's Hazard Mitigation Grant Program) this has created an issue in documenting compliance.</p>
<p>8. Revise procedures so that, in the event of a conflict between federal program funding sources, no disaster project otherwise eligible for CDBG funds shall be required to provide a matching contribution to access other federal funds.</p>	<p>While Texas received additional funds from FEMA related to Hurricane Rita recovery, FEMA repeatedly changed matching funds requirements. The match jumped from 25% match to 10% match, to 0% match causing numerous administrative, budget and performance statement amendments.</p>
<p>9. Procedures preventing duplication of benefits shall not apply to donated volunteer labor, hazard insurance, flood insurance, or disaster payments received from the Federal Emergency Management Agency or the Small Business Administration</p>	<p>In Texas, Hurricane Rita victims used funds from FEMA to make emergency repairs to their houses, such as purchasing tarps to place over the roof. When the State of Texas came in later with CDBG housing assistance money, the duplication of benefits prohibition in the Stafford Act deducted FEMA and other housing assistance from the CDBG award and created a gap in funding for property owners.</p>

10. The Army Corps of Engineers and other permitting agencies shall prioritize disaster area projects over any other project.	Required federal permits are being delayed in excess of 12 months for disaster projects. ORCA is funding the repair of over 25 bridges related to damage from Hurricane Rita. According to the Army Corp of Engineers, most will need 404 permits that are estimated at 12-18 months for approval with no possibility for prioritization.
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### Comparison of FEMA Public Assistance vs. CDBG

ORCA believes both programs (FEMA Public Assistance and CDBG non-housing assistance) are critical for successful recovery of a community. The challenge for implementation is the programmatic structure and differences in standards and policy that conflict and interact with each other. These unintended consequences cause delay, uncertainty and potentially reduce benefits to affected communities.

**Matching of Funds Requirements** – The need for communities to provide matching funds for FEMA projects is a significant barrier for many communities that lack both the fiscal capacity and manpower resources after a catastrophic storm to develop funding sources while coping with provision of day-to-day services. The Congressional appropriation stated that supplemental CDBG funds under Dolly & Ike cannot be used as match, further limiting local options to access FEMA funds. FEMA changing match funds amounts was another factor that contributed to the uncertainty and delay encountered in Rita.

**Eligibility Requirements** – The pace of assessing damages for FEMA funding can adversely impact CDBG eligibility. HUD has stated that projects eligible for FEMA benefits are not eligible for CDBG funds. This either delays projects or potentially makes them non-competitive if FEMA has not completed their eligibility process prior to when CDBG grants are awarded. A project should be able to proceed with funds through CDBG and FEMA reimbursing ORCA for eligible costs.

**Limitations on Use** – The FEMA standard of funding to restore “pre-event status” complicate not just efforts to restore a facility but to also cost-effectively harden or improve systems that were marginal or inadequate before the storm. This forces communities to structure the scope of a project for the best chance at funding rather than to address the true need. CDBG funds should be used to harden or improve these facilities with FEMA reimbursing the project for the amount of initial reconstruction.

ORCA’s position is that we should utilize CDBG as the central process for long-term recovery from which other programs can be tapped to address specialized funding needs. The proposed revisions to Title I and the Stafford Act address some of these shortfalls and move the discussion in that direction.

### Fulfilling CDBG’s Potential in Disaster Recovery

The frequency, intensity and scale of recent disasters has heightened public awareness and increased expectations of government, both during and after crisis situations. Each of the five (5) storm events to impact Texas since Katrina and Rita has contributed to our body of knowledge, spurring changes to the ongoing challenge of disaster response and recovery.

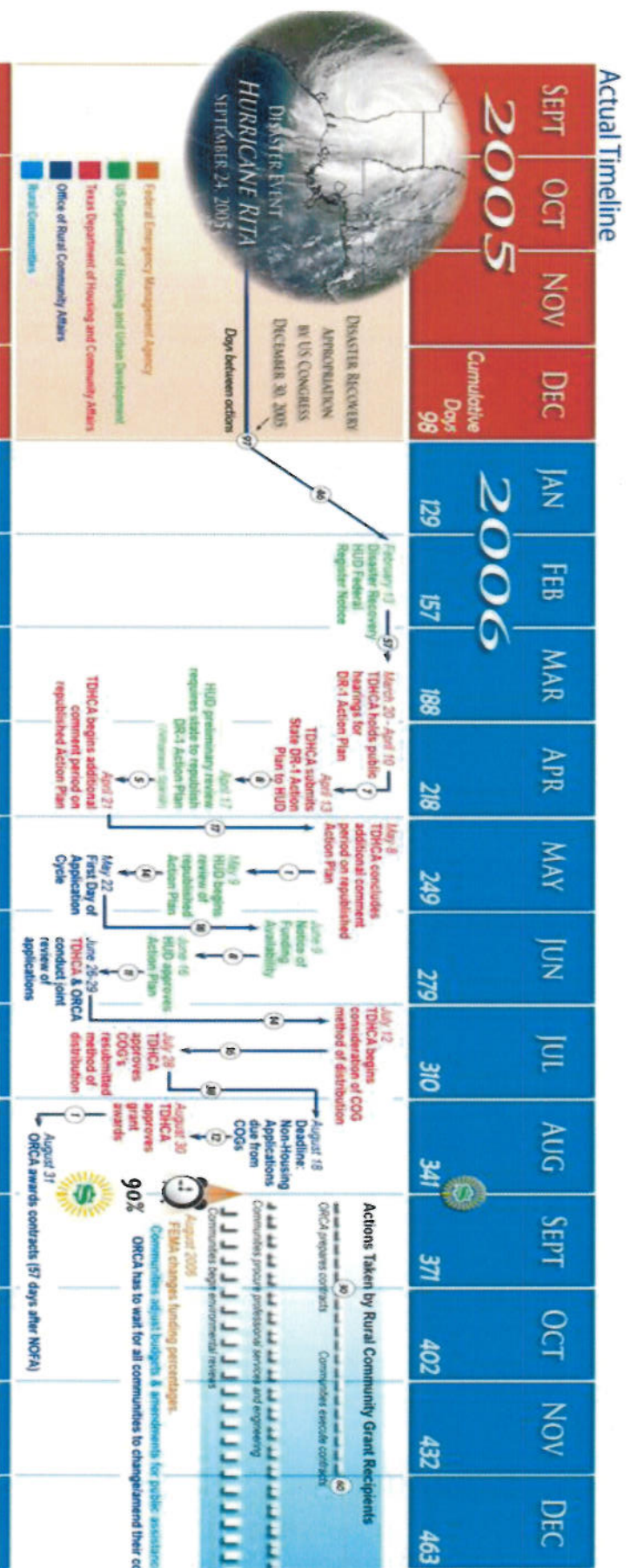


This has revealed both strengths and need for improvement in CDBG and other federal programs to better address the needs of communities struck by major disasters. Clearly, a customer-centric service delivery approach is more effective than a funding source-driven recovery effort.

A system that appears reasonable for communities completing one (1) or two (2) projects every few years with a given federal funding source becomes unworkable, overwhelming local governments during a widespread disaster event. Differing terminologies, procedures and agendas confuse - if not stymie - the public and local officials. Communities need a clear understanding of damage assessment methodology and project eligibility early in the process.

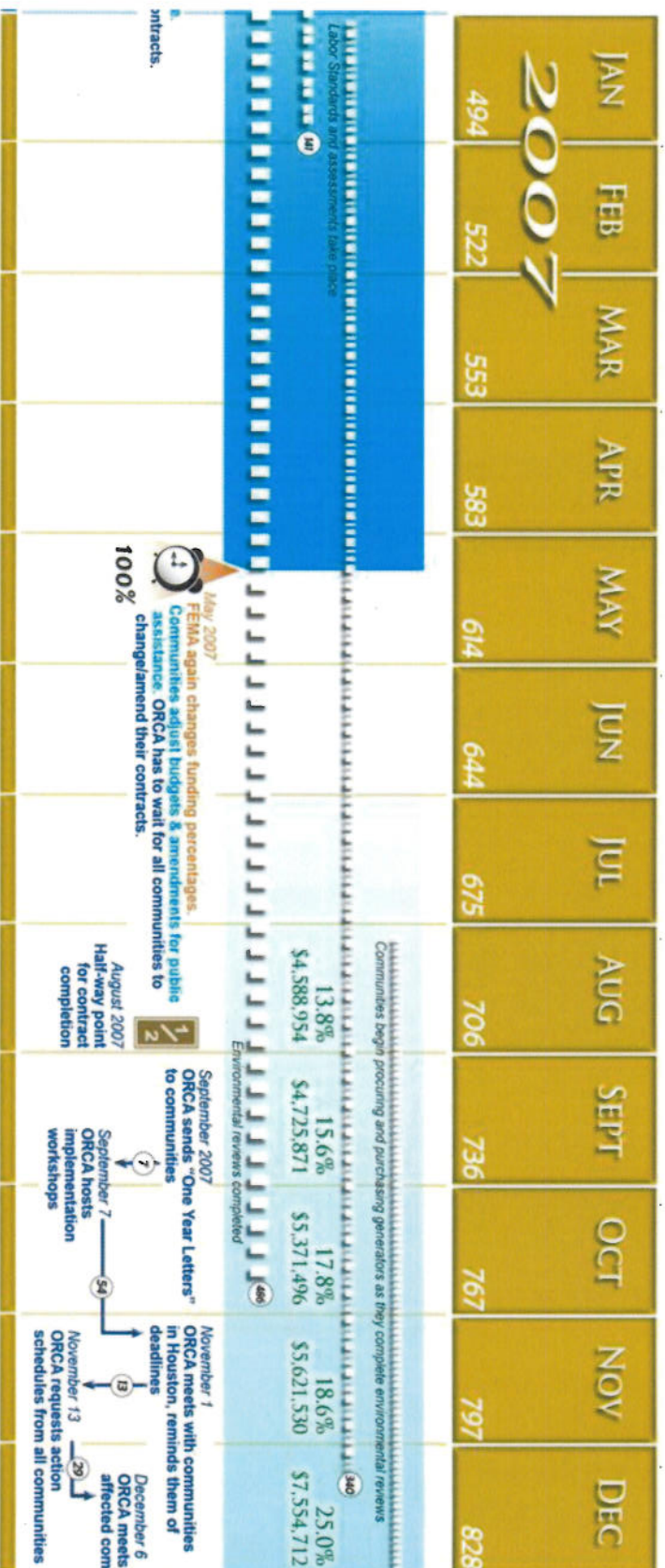
Lastly, ORCA holds that disaster communities would benefit from a unified federal program for long-term recovery that acts as a portal to other funding sources. The status quo is typified by numerous agencies for which disaster recovery is an adjunct function rather than the primary mission. The result, a patchwork of ad hoc waivers and interpretations for each disaster event, creates a weak and inefficient framework for local decision-making. Both local governments and the consultant community are familiar with the CDBG structure, requirements and program history. CDBG offers the framework and methodology to direct local recovery and redevelopment activities. The proposed changes to Title I and the Stafford Act should be seen as a first step to bridge the gaps and resolve unintended consequences that stand in the way of rapid recovery. The suggested changes to Title I will help to move away from ad hoc post disaster waivers toward proactive policies and contingencies -- critical issues for quick implementation of disaster recovery programs.

# Texas Hurricane Rita Recovery Timeline



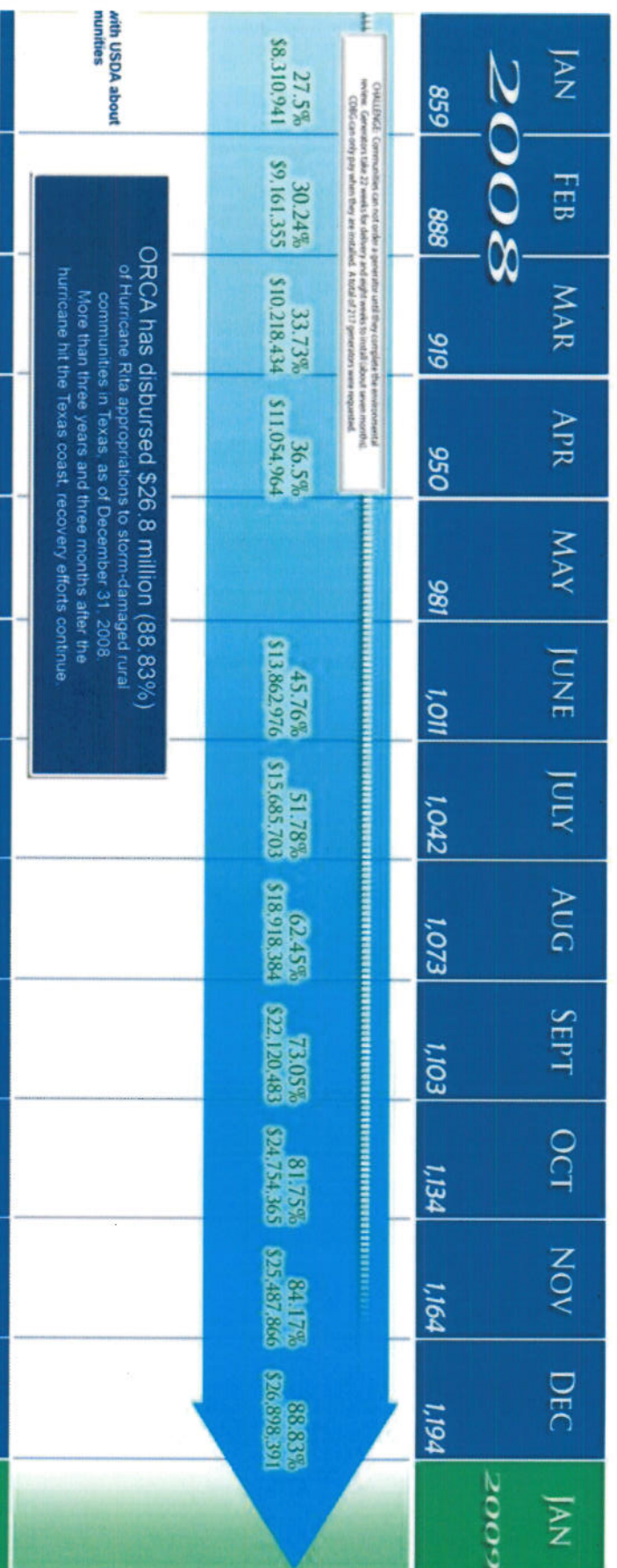


## Texas Hurricane Rita Recovery Timeline



- 486 days to complete Environmental Review for all contracts - (Sept. '06 - Oct. '07)
- 360 days to complete Davis-Bacon Act requirements for all contracts (Jan. '07 – Dec. '07)
- 685 Days after event – First expenditure of Non-Housing funds (Aug. '07)

## Texas Hurricane Rita Recovery Timeline



- 1,194 Days after event – 88.8% of funds expended locally (12/31/08)
- Three years and seven months after event, 95.6% of funds expended locally (92 Non-Housing Projects funded, 94 Communities rec'd Non-Housing Funds) 5/2009