

United States Senate
WASHINGTON, DC 20510

September 12, 2019

The Honorable Ben Carson
Department of Housing and Urban Development
451 7th Street, N.W.
Washington, DC 20410

The Honorable Russell Vought
Office of Management and Budget
725 17th Street, N.W.
Washington, DC 20510

Dear Secretary Carson and Acting Director Vought,

Nearly two years ago, Puerto Rico sustained catastrophic damage from Hurricanes Irma and Maria, nearly 3,000 people lost their lives, and homes and entire communities were destroyed. Yet, as we approach the two year anniversary of these historic natural disasters this month, Puerto Rico is still unable to access more than \$18.4 billion in federally appropriated resources intended to assist with rebuilding disaster-devastated areas. This discriminatory treatment is unacceptable, disregards clear congressional intent, and is in violation of current law. Congress approved this funding in order to help the victims of two Category Five hurricanes recover.

Congress did not approve the funding in order for bureaucrats to sit on the money in Washington while the American citizens who were victims of these hurricanes go without recovery assistance.

As a result of federally approved damage estimates, Congress provided, and HUD has allocated, more than \$35 billion in disaster recovery funds under the Department of Housing and Urban Development's (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) program for 2017 disasters, including \$15.9 billion for mitigation activities for disasters occurring between 2015 and 2017. Yet, two years after the passage of the first supplemental appropriation, the Department is willfully withholding more than 52 percent of the funding intended to help communities in Puerto Rico rebuild homes and businesses and make critical investments in resilient infrastructure. Not only has HUD delayed initializing Puerto Rico's CDBG-DR grant agreement for more than \$8.2 billion by six months since approving their required Action Plan, but the Department has intentionally delayed the publishing of allocations and the respective administrative requirements in the Federal Register for an additional \$8.3 billion for CDBG mitigation activities.

We wrote to you and FEMA's Acting Administrator, Peter Gaynor, *over five months ago* expressing our concerns about these programmatic delays and insisted that HUD make available the \$8.3 billion in CDBG mitigation funding by publishing the allocation and the respective

administrative requirements in Federal Register notice within 30 days. Yet, those funds remained unavailable due to repeated requests by the Office of Management and Budget (OMB) to create additional terms and conditions in a grant agreement that no other grantee has been subject to under the lifetime of the program.

Frustrated with the continued delay, we subsequently included Section 1102 in the Additional Supplemental Appropriations for Disaster Relief Act of 2019, which was enacted into law on June 6, 2019. Section 1102 required HUD to publish allocations and the respective administrative requirement for all amounts made available for mitigation activities through the Bipartisan Budget Act of 2018 (P.L. 115-123) within 90 days after the enactment of the Act. It has now been over 90 days since the passage of that Act, and the Department has failed to meet the statutory deadline for Puerto Rico and is in violation of the law.

In our view, this is not an impossible or overly burdensome step in the process that the Administration is expected to take, particularly when the Department has already created and published the guidelines for mitigation activities for which 15 other cities, counties and states must follow. This is simply one small step in the process that ensures there is transparency on how the funds can be utilized and allows Puerto Rico to adequately plan and begin its public engagement process for its long-term recovery activities to avoid duplication, waste, and further delays in the recovery process. In fact, even with the publishing of Puerto Rico's mitigation allocation in the Federal Register, the Act stipulates that a grantee that is subject to FEMA's section 428 program (as Puerto Rico is) cannot draw down or expend funds prior to reaching a final agreement on all fixed cost estimates, which is still ongoing with FEMA. It also upholds the requirement that grantees have proficient financial controls and procurement processes in place to ensure that there are adequate protections for sound fiscal oversight and management.

We recognize that Puerto Rico has undergone significant political change over the past several months, but that does excuse further delaying the publication of the CDBG mitigation allocation for Puerto Rico, as the law requires. No material changes in policy, procedure or leadership have taken place within Vivienda, the designated administering agency for CDBG in Puerto Rico, that warrant these delays in HUD's administrative processing of CDBG-DR resources. Under the continued leadership of Fernando Gil Enseñat, Vivienda has already proven that it has met HUD's terms and conditions for proficient financial and procurement standards and procedures, as evidenced by the approval of their grant agreement for the use of \$1.5 billion in CDBG-DR funding.

We are writing to remind you of your legal obligations to make the more than \$8.3 billion in allocated mitigation funds to Puerto Rico available by September 4, 2019, and insist you publish its allocation, terms and conditions for the funding in the Federal Register imminently, as well as finalize grant agreements for the \$8.2 billion in CDBG-DR funding that has already been approved through Action Plans immediately. Congress and the Americans who live in Puerto Rico need to have faith that despite our differences, that this Administration will faithfully execute and administer the law as so dutifully sworn when you took the oath of office.

Sincerely,

A handwritten signature in blue ink that reads "Charles Sch" followed by a long horizontal flourish.

Charles Schumer
Minority Leader

A handwritten signature in blue ink that reads "Patrick Leahy" in a cursive style.

Patrick Leahy
Vice Chairman
Committee on Appropriations