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WRITTEN STATEMENT OF DOMINIQUE DUVAL-DIOP
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UNITED STATES SENATE HEARING OF
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
"THE ROLE OF THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM IN DISASTER RECOVERY"

May 20, 2009

Good afternoon Madam Chair Senator Landrieu, Ranking Member Senator Graham, and the members of the subcommittee. My name is Dominique Duval-Diop and I am a Senior Associate of PolicyLink as well as a board member of the Equity and Inclusion Campaign. I want to begin by thanking you for your continued efforts to oversee and monitor the state-managed housing programs created in the aftermath of hurricanes along the Gulf Coast.

PolicyLink is a national research and action institute advancing economic and social equity, with offices in Oakland, New York, New Orleans and Los Angeles. Since early 2007, PolicyLink has invested significant resources in monitoring the development, implementation, progress and impact of Louisiana housing recovery programs funded with supplemental CDBG dollars. We have tracked the three major housing recovery programs—the Road Home homeowners program; the Multifamily Rental Program (funded through Low Income Housing Tax Credits and Disaster CDBG funds); and the Small Rental Repair Program. We have issued 2 major reports in 2007 and 2008 documenting the trends of our analysis, with neighborhood, parish-specific, and other analyses done to meet context-specific requests for information. In April 2008, PolicyLink and the Louisiana Recovery Authority entered into a confidentiality agreement and MOU to work cooperatively to conduct an analysis of the homeowners' program to determine trends in grant awards and gaps for homeowners working to recover their homes. PolicyLink has had a similar partnership with the Louisiana Housing Finance Authority to analyze the impact of $581 million of CDBG dollars that have been coupled with Low Income Housing Tax Credit program in a "piggyback" arrangement. This arrangement gave an additional incentive for developers to address the needs of seniors and people at risk of homelessness by increasing the number of deeply affordable units. It also encouraged the economic integration of different income groups into new housing developments.

Throughout our data analysis and work with State officials, PolicyLink has convened or supported the convening efforts of hundreds of non-profits, faith-based and community-based groups working for the recovery of their communities. These convenings, along with qualitative survey work of organizations' neighborhood recovery work, served to inform our analysis, provide ongoing information to those groups, and assisted in the crafting of recommendations for local, state and federal government to remedy gaps and challenges confronting housing recovery.

We have also continued to monitor the many CDBG actions and have filed public comments on action plans and proposed use of funds in collaboration with the Equity and Inclusion Campaign for both Katrina and Rita as well as for the 2008 hurricanes. The Equity and Inclusion Campaign is a nonpartisan policy advocacy and public messaging campaign advocating for fulfillment of the federal commitment to confront persistent poverty and inequity during the Gulf Coast recovery and rebuilding process. The Campaign, an initiative of the Louisiana Disaster Recovery Foundation, is working to effect systemic change throughout the tri-state region (Alabama, Louisiana and Mississippi). The joint work of the membership of The Equity and Inclusion Campaign across state lines have made painfully clear how disparately citizens of the same disaster are treated depending on their state of home residence, their housing tenure, and their race and economic status.

There is no objective measure for how fast such a massive housing recovery should move. But the challenges facing homeowners who confront ever-changing program rules and who are left without sufficient resources to complete repairs—and the Catch-22 of ending temporary housing help before rental replacement units are available—continues to place a significant burden on impacted residents and the communities that they are struggling to rebuild.

We are all aware of the depth of the complexity and the long term nature of Gulf Coast recovery. We are all working towards better ways of dealing with this complexity. As we continue this work, we must be aware of how the Community Development Block Grant (CDBG) program structure and the manner in which states have implemented CDBG recovery has led to numerous problems that have been detailed in many reports and presentations over the past three and a half years.

Today, I will focus on the following ongoing concerns: 1) the insufficient allocation of CDBG recovery resources towards activities that support the core mission of the program, which is to support the needs of the most vulnerable and low to moderate income—leaving these populations and the communities from which they come languishing in the recovery; 2) the need to focus on neighborhood- recovery by creating structural supports for nonprofits that are delivering key housing recovery services and resources to the hardest hit residents and neighborhoods; 3) the constraints of CDBG funding on nonprofit participation; 4) the difficulty facing citizens and nonprofits to influence the crafting of programs meant to address the unmet human and community needs of hurricane and flood-impacted communities; and 5) the future use of unspent funds.

Insufficient Allocation of Funding For the Needs of Low Income Families

Of the $13.4 billion that Congress appropriated in disaster CDBG funds for Katrina and Rita recovery, the State of Louisiana allocated 78 percent for housing recovery programs. Approximately, $1.4 billion or 14 percent was designated to repair or replace the affordable rental housing stock, including public and assisted housing, and assist with supportive housing and homeless supports.[1] These resources will only replace only two-fifths of the 82,000 rental homes damaged or destroyed.[2] Furthermore, few if any of the CDBG resources have been targeted specifically at the needs of families who were forced to move out of state after the storms and who seek to return home.

Several sets of waivers have been granted by HUD allowing Mississippi and Louisiana to spend Community Development Block Grant (CDBG) Disaster Supplemental funds with less focus on low income people. Other waivers have shortened the amount of time that citizens have to examine and comment on action plans and amendments that create these programs. These waivers as well as the approval of action plans that allocate funding for programs that do not benefit low income families must be examined closely to determine their impact on the poor and working poor. For example, Congress granted the states increased flexibility in determining who would be eligible for programs funded with supplemental dollars. Specifically, the standard CDBG requirement that 70% of the funds benefit people with low to moderate incomes (at or below 80% of the area median), Congress required only that 50% of the funds serve this income group and gave HUD the authority to waive even that requirement.

Under the regular CDBG program, businesses that receive assistance must ensure that 51% of new or retained jobs go to people living in lower income households. HUD waived this provision for Louisiana and instead will allow the state to designate the employee as low income if his/her wage is less than 80% of the area median income. Under this waiver, a youth from an affluent household, working part-time for an assisted business would be considered low income. Additionally, Louisiana received a waiver of the public benefit requirements for economic development activities. This means that these states are not required to demonstrate that a limited amount of resources is invested per job created and/or retained with its investment in businesses.[3] Given that the hurricane- and flood- affected states constitute some of the highest poverty states in the nation, this waiver created an enormous missed opportunity for engaging lower income residents in the lucrative work of recovery.

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[1] Office of Community Development, Disaster Recovery Unit. January 2009. *Disaster CDBG Program Appropriations, Allocations and Expenditures for First Quarter of 2009*

[2] PolicyLink. 2007. *Bringing Louisiana Renters Home: An Evaluation of the 2006-2007 Gulf Opportunity Zone Rental Housing Restoration Program.*

[3] 71 Fed. Reg. 7666, 7667 (Feb. 13, 2006); 71 Fed. Reg. 34,457, 34,460 (June 14, 2006); 71 Fed. Reg. 62,372, 62,373-74 (Oct. 24, 2006); 71 Fed. Reg. 63,337, 63,339 (Oct. 30, 2006); 72 Fed. Reg. 10,020, 10,021 (Mar. 6, 2007).

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Housing Recovery Programs, Nonprofits and Neighborhood recovery

Housing Recovery Programs

PolicyLink conducted a review of housing recovery progress made by the State of Louisiana as it implemented major, federally-funded housing recovery programs that were developed in response to Hurricanes Katrina and Rita to restore storm-damaged housing. Those programs include the Large Rental and the Small Rental Repair programs, and the homeowners' Road Home program . The attached report can also be accessed at http://www.policylink.org/threeyearslater/.

FEMA estimated that about 330,000 homeowners suffered from minor to complete damage of their homes across the storm affected areas in Louisiana. The Road Home Homeowner Assistance program provided grants for the uninsured losses of homeowners to repair their homes or relocate. The State expects more than 150,000 homeowners will receive grants from the program—with 90 percent of those paid out as of mid-April 2009. Applicants could receive up to $150,000 in compensation for their losses, but were awarded an average of $64,000 to either rebuild their damaged residences, or to sell their homes to the state in order to purchase another home in the State, or to relocate out of state. Families that had sufficient insurance (flood, wind, and homeowners), and those that could rely on their own assets, generally moved into repair mode in the first year after the storm. Repopulation maps of damaged areas show a correlation between higher incomes and faster reoccupancy (see http://www.gnocdc.org/repopulation/). However, households that depended solely on the Road Home program generally had a slower recovery process due to insufficient funds and the slow pace of the program in its initial years.

Significant challenges remain for those who have received their grants and those who have yet to close. Nonprofit groups working with homeowners report that many recipients face insufficient rebuilding grants, contractor fraud, a high-cost environment, inability to access additional credit, and home-title succession challenges that delay or deny funding for the home repair. Our analysis found that the majority of homeowners choosing to rebuild in place did not have sufficient resources to fully recover their homes.

Furthermore, programmatic policies have had an impact on the equitable distribution of funding to the low-income and to certain neighborhoods in the City of New Orleans. One such change was made to the Road Home grant calculation formula in August 2006 that caused major gaps experienced by applicants with low pre-storm home values. The original formula allowed for meeting rebuilding/repair costs up to $150,000 and the changed formula relied on the pre-storm assessment of the home. The grant formula had a more negative effect on those whose homes sustained significant damage and were valued less than their damage estimates. Those whose damages were greater than their pre-storm home value—47.3% of all applicants rebuilding in place—experienced a gap of nearly $69,000.

This change left 71 percent of New Orleans homeowners, 84 percent of applicants from St. Bernard parish, 70 percent of those in Cameron parish, and 59 percent of homeowners statewide who are rebuilding in place with rebuilding gaps ranging from the small to the significant. Households with significant damage and low pre-storm home values were particularly hard hit by this change. Across the City of New Orleans, the most severe community-wide impacts are revealed in New Orleans East with a gap of $65,000 and the Lower 9th Ward with an average gap of $68,000. New Orleans' Road Home applicants are more likely to have a gap than all applicants statewide. More than 60 percent of households in New Orleans East and the Lower 9th Ward have gaps over $40,000 compared to 49 percent in the city and 33 percent statewide.[4]

The changing nature of program rules, the inconsistent application of these changes and other regulations including those related to income qualification and assessment values have also led to lower grant awards and higher gaps. When applicants turn to the appeals process, they are hindered by the lack of written documentation of decisions affecting their application which creates a climate of uncertainty. Thousands of homeowners have fought for correct grant amounts. Appeals as of April 16, 2009 resulted in over one-third (35%) of the 15,399 resolved appeals cases (5,426 applicants) receiving an average additional disbursement of $26,817.[5] There are many, however, who have unsuccessfully attempted to navigate the confusing and changing application and appeals processes. Lastly, delays in the elevation grant program, which geared up last summer, made rebuilding grants and elevation grants out of sync, making it difficult for homeowners to rebuild in a safer manner.

Regarding rental recovery, the Small Rental program in Louisiana aims to reduce blight in heavily damaged neighborhoods, where rental units in traditional housing stock existed side-by-side with those occupied by homeowners. While the goals of the program are laudable, the program hit innumerable roadblocks. Unlike the upfront grants of the homeowner assistance program, federal rules steered the state toward a complex program that reimbursed landlords after repairs were finished and a tenant was in place. This required landlords to get private financing for their repairs, which became increasingly difficult as the national credit market tightened and landlords continued to carry mortgages on properties without any rental income. Only recently has this problem been addressed by a revision of program rules that will allow some resources to be allocated to applicants upfront. As of May 4th, 2,646 affordable units had tenants of the 8,520 provisionally awarded resources[6].

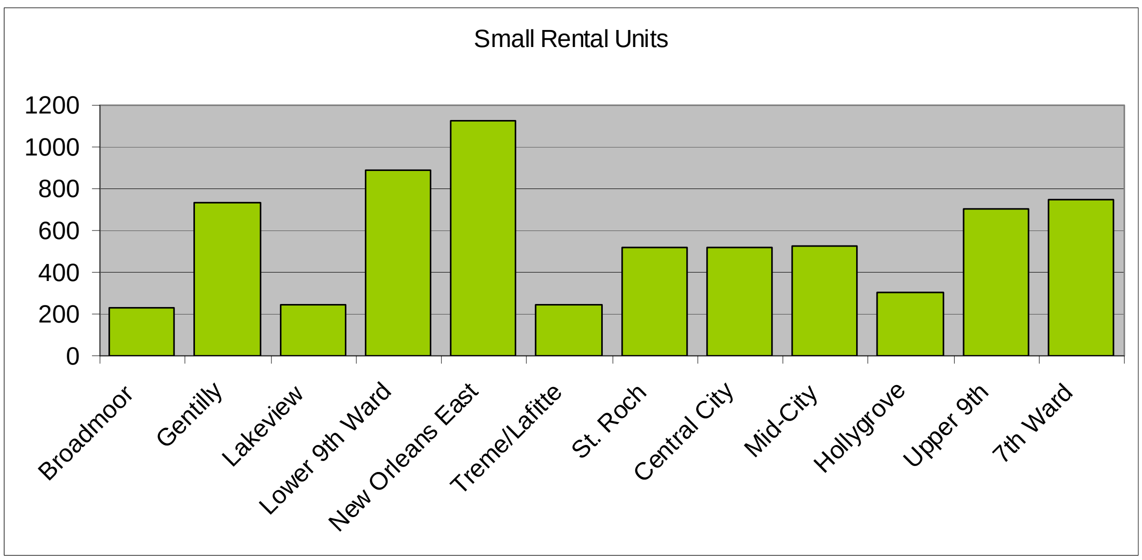
The program also suffered from a complex application process and a series of rule changes for eligibility. This programmatic confusion was exacerbated by applicants being unable to access their files and or receive the technical assistance they needed to complete program

[4] PolicyLink. 2008. *A Long Way Home: The State of Housing Recovery in Louisiana 2008.* The figures presented above are updated from those included in this report.
[5] Based on data obtained from The Road Home program. April 16, 2009.
[6] Small Rental Property Program Operations Status Report, May 4, 2009, The Road Home Program.

requirements. Applicants also experienced many problems similar to Road Home applicants in accessing their files and repeatedly having to verify their documentation. The state has made many improvements in this arena, and is now holding regular sessions to work with landlords, but the number of applicants who were lost in the system are unquantifiable. Between the large and small rental programs statewide, current allocations in both will only replace 2 of every 5 affordable units lost, while only 1 in 3 affordable rentals in the New Orleans area will be replaced. Parishes particularly far behind in replacement of rental units in the metro region are St. Bernard, Jefferson, and Plaquemines.

The convergence of too few resources to repair neighborhood rental housing stock, the national credit crisis, and programmatic delays together compound the neighborhood blight fostered by the gaps in financing for the homeowners program.

The following chart shows the dependence of New Orleans' neighborhood recovery on the rental program and while many neighborhoods are still blighted:



Additionally, the financing threats facing the large rental program—with investors withdrawing from projects, and a recent ruling from Treasury that deemed GO ZONE LIHTC's ineligible for Treasury exchange allowed under ARRA—mean that even the 2 of 5 replacement-level of affordable rentals originally projected is likely to be diminished. As residents transition off their temporary housing programs, those above 50 percent of AMI will have great difficulty finding affordable homes at their income levels, as these incomes were the target of much of this planned replacement housing.

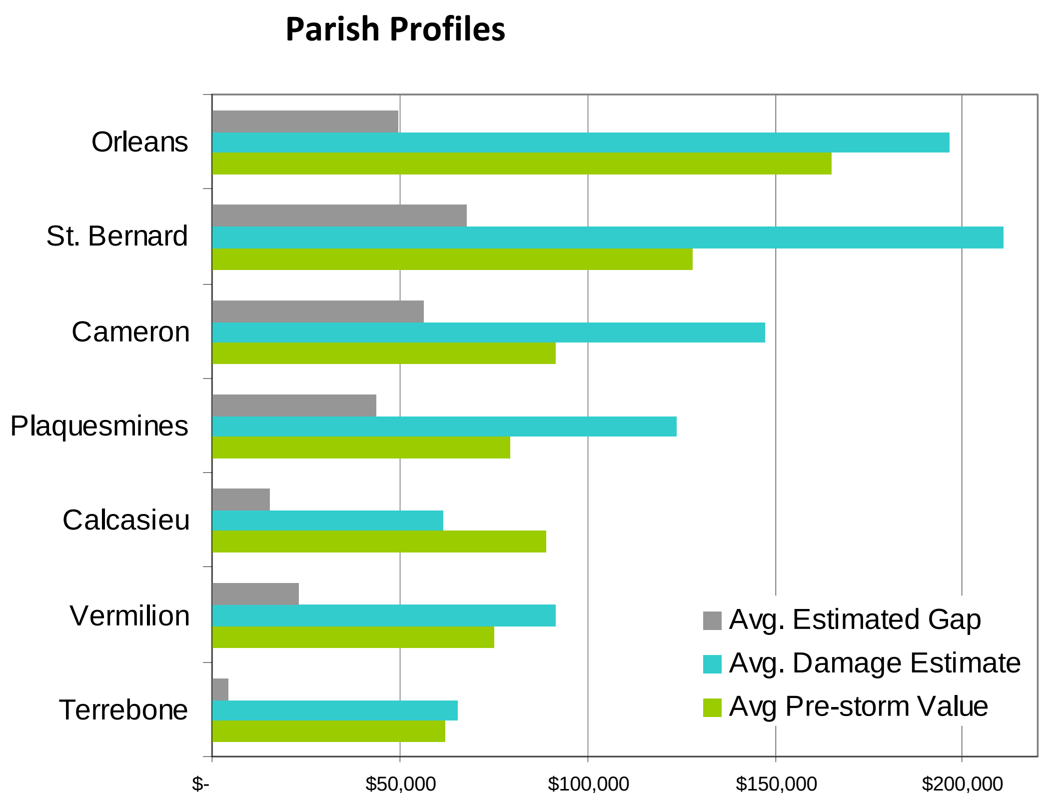
The Role of Nonprofits and Community-Based Organizations in Neighborhood Recovery

A mosaic of community organizations—from housing counseling, housing development, neighborhood associations, and volunteer-staffed rehab groups—have arisen or expanded in disaster affected areas to help residents navigate the tortuous path to recovery. Together, these organizations gutted several thousand flooded homes, and rehabbed or rebuilt over a thousand homes. Services provided by these groups include: case management, volunteer coordination, referral services, construction management, financial assistance, legal assistance, and housing rehab.

In June of 2008, PolicyLink undertook an assessment of the housing recovery challenges faced by New Orleans residents. Road Home housing application data was examined to understand the trends for residents relying on federal recovery funds. Then community groups that are helping families rebuild their lives were interviewed. Through interviews and working meetings these groups laid out the primary reasons for homeowners being unable to rebuild their homes. The challenges most commonly faced by homeowners are listed below.

- **Contractor Fraud and Mismanagement.** The number one obstacle to recovery concerns construction contractors, specifically contractor fraud. With large awards and a cumbersome prosecution process, fraud has seen a steady increase. Many homeowners have become victims of outright theft of their recovery dollars and are now facing rebuilding with little to no money. Preliminary findings of a LouisianaRebuilds.info and LSU survey estimate that over 9,000 residents have been victim to contractor fraud over the last three years. Survey results indicate higher incidences of fraud among lower income and lower literacy residents. Many have been victimized by unlicensed and uninsured contractors, making it more difficult to pursue damages and restitution. Additionally, a significant number of homeowners have been unable to manage the construction process which can allow contractors to take advantage of their lack of knowledge or poor decision making by homeowners that can whittle away the money needed to rebuild.

- **Not enough money to rebuild.** Even if homeowners are able to manage their construction process, many do not have enough money for a complete rebuild. Lack of funding was attributed to: Road Home grants being too small due to reasons including grant formula calculation, under assessed home values, and increasing construction and insurance costs; poor financial decision-making and/or forced payoffs of their mortgages; and the increased costs of living affecting all Americans (increased energy and food costs) as well as the particulars of additional costs saddled to families trying to rebuild a home while living in another. For homeowners in areas that are required to elevate, the fact that the program restarted early in the year means that many homeowners have begun the rebuilding process without resources necessary to elevate. These homeowners may find it prohibitively expensive to back track to begin elevation on a home that has already been rebuilt/repaired or for which rebuilding/ repair has commenced.



- **Credit Issues and Foreclosure.** Due to the tightening credit markets and storm related credit issues, many homeowners are finding it extremely difficult to access credit to fill any gaps they may be experiencing. Although rates of foreclosure in Louisiana are far lower than in other parts of the country, rebuilding groups are starting to see evidence of this trend shifting as families start to face foreclosure or simply are unable to rebuild and after having obtained an additional mortgage.

- **Increased Financial Vulnerability.** A slow rebuilding process that has forced homeowners to drain their financial resources (including savings and retirement accounts) or to rely on uncertain loan arrangements (such as pay day loans and personal network loans) has increased financial vulnerability. The threat of recoupments caused by Road Home grant calculation errors leading to overpayments, or potentially caused by homeowners' inability to meet covenant requirements further enhances the precarious financial position many homeowners find themselves in. Federal income tax penalties that were unclear upfront to applicants and rising cost of insurance also limits household resources and raises risks for breaking covenants.

- **Delay and Difficult Access to Information.** One of the most constant criticisms of the Road Home Program has been overall recovery program delay and the difficulty in accessing accurate or consistent information. Constant changes in policies affecting applicant has made monitoring the progress of a Road Home application nearly a full time job, which can overwhelm and confuse many applicants. This confusion has caused many to make misinformed decisions or simply give up out of sheer frustration with a program that may likely not give them the resources needed to rebuild.

- **Succession and Title Issues.** Clear title has become a major stumbling block for many property owners in the city with family owned properties passed down from one generation to the next without paperwork. While these properties are owned outright, without clear title, families cannot advance through the Road Home process. Similarly, there have been problems for individuals that own multiple properties but allow other family members to live in their properties for free. Only the person on the title of the property can apply for the Road Home program and can only apply for one property – their primary residence. The other family members are ineligible for the Road Home so properties generally have no money to repair and families have no place to live.

In response to political pressure at various points throughout the implementation of the program, state policymakers have consistently responded by building the capacity of the large state contractor. The State has only recently allocated modest, additional resources directly to nonprofits to assist with the needs that have been identified above as well as to assist in transitioning families dependent on temporary housing assistance programs into more permanent housing. The lack of substantial and sustained investment in the community infrastructure from the outset of hurricane recovery has stifled rather than enhanced the organic recovery process and community ingenuity. We have missed the opportunity to contribute to the creations of sustainable and resilient communities; communities that are able to initiate and invest in their own recovery and redevelopment.

Furthermore, housing recovery is being undertaken in silos, where different types of housing –large multifamily, small rental, owner-occupied homes—are subject to different program rules and progress is occurring within the context of these program silos. These silos have obscured the fact that the progress of housing recovery at the community level is very uneven and reveal racial and social inequities.

To illustrate this point, housing recovery in the rich, predominantly white, New Orleans neighborhood of Lakeview is progressing very well in comparison to the poor, predominantly African America New Orleans neighborhood of the Lower 9th Ward. The map presented below reveals the confluence of factors that have served to completely stymie recovery in this small section of the Lower 9th Ward. It shows Louisiana Land Trust properties which have yet to be redeveloped by the New Orleans Redevelopment Authority (NORA). It shows the extent of gaps facing Road Home applicants in this area who want to rebuild. These data highlight the connection at a neighborhood level between city redevelopment efforts and the state level Road Home program. If we were able to layer small and large rental units coming back online, we would probably see an even greater concentration of blight.

The clear connection between the high gaps facing residences in this area and the number of properties that still remained blighted or abandoned is a powerful way to assess the actual progress on the ground and the impact of slow programs on neighborhood rebuilding.

Building Conditions and Average Rebuilding Gaps in the Lower 9th Ward

Sources: Building condition data collected by A. Curtis, Dept of Geography, USC, June 2008.
Average Rebuilding Gap calculated from Road Home data obtained from the Louisiana Recovery Authority, Oct 2008.
Louisiana Land Trust properties represent homes sold to the State through the Road Home. Data from LRA, Oct. 2008.

Map Created by PolicyLink 2009

Citizen Participation

Community participation can play a critical role in shaping policy and developing programs that address community needs and reduce historic inequities. As residents seek to transform their neighborhoods into ‘communities of opportunity’—places with access to good schools, healthy food, places for recreation, healthcare and transportation access-- the role of the state in validating and supporting community participation becomes paramount.

While the State in its development of the Gustav and Ike CDBG Action plans has required extensive citizen input processes for the local subgrantee recipients, it has not employed the same principles in its own state level action plans. Since the first set of approved waivers, State officials have used an expedited citizen comment period and have not presented action plans to the public in the form of public hearings. Because this process of engaging community input into program and policy development takes plan after a significant amount of planning has already occurred, those who do comment rarely see significant modifications to action plans based on their input. This can be resolved by the State creating a citizen advisory council that is representative of disaster-affected communities that has the authority to shape the development of policies and programs and conduct public input process that is more authentic. Thus can the State benefit and acknowledge the wisdom and hard-won expertise of community based groups.

The Future Use of Unspent CDBG Funds

As of February 6, 2009, the Louisiana Recovery Authority projections of unexpended Road Home dollars range from a $30M deficit to just over $200M. Another $650 million still remains unspent in the Individual Mitigation Measures program. 90 percent of unspent Road Home funds should be allocated for gap-grants to homeowners to close difference between damage estimates and compensation awards up to $150,000. These grants would cover those with gaps due to administrative errors and problematic appeals AND homeowners with gaps due to damage estimates that were much higher than pre-storm home values.

An additional 10 percent of any unspent Road Home funds to nonprofits in a competitive RFP process to help homeowners and small landlords that are most vulnerable (low income, low literacy, disabled, elderly) repair their homes and rental properties. Non-profits should have a demonstrated ability of leveraging resources such as labor, materials and other funding sources to complete units, and should be given extra points for focusing their efforts in areas with significant amounts of concentrated blight or in areas subject to spot blight.

Furthermore, all resources that are currently allocated to the Small Rental Repair Program should remain dedicated for that purpose. According to the LRA, there are commitments for $408.3 million of the original $866.5 million allocated for the Small Rental Program. Additionally, $115 million will be spent on first time homeownership programs. This leaves $343.2 million in the program reserves, and should remain targeted at increasing affordable rental housing stock and reducing blight in neighborhoods.

Key Recommendations

Address concentrated blight in neighborhoods that have not fully recovered from the disasters of 2005 and address vulnerable populations that cannot rebuild without case or construction management and additional cash assistance. Unspent funds (detailed below) should be structured in a manner that allows: 1) nonprofits to couple case management services with direct cash assistance to help low-income, elderly or disabled homeowners close their rebuilding gaps; and 2) community based nonprofit groups to couple construction management with resources to acquire construction materials, marshal volunteers, and engage skilled contractors to assist in the rebuilding of neighborhoods that are largely unrecovered. The funds should be granted in manner that allows nonprofits to draw down on funds—*not* require reimbursement for funds drawn down from organization's own resources.

These two uses—funding nonprofits to address blighted neighborhoods and vulnerable residents—addresses the insufficient allocation of large amounts of CDBG recovery resources towards activities that support the core mission of the program—the support of the needs of the most vulnerable and low- to moderate-income; 2) the need to focus on neighborhood- recovery by creating structural supports for nonprofits that are delivering key housing recovery services and resources to the hardest hit residents and neighborhoods. While the State of Louisiana has moved to allocate some resources to this purpose ($5M), the amount is minuscule compared to the need. 58,000 applicants to the Road Home program had damage estimates greater than their assessed home values. An $800M pool would help 30,000-40,000 homeowners or rental property owners recover both its residents and its neighborhood. PolicyLink and our partners have supported this approach since 2006, as it became clear that these were the major recovery actors for these populations.

Resources currently allocated to meet the needs of low-income homeowners that are struggling to rebuild and the need for affordable rental housing should not be diverted from those purposes. This includes the $343 million that is uncommitted in the Small Rental Repair program and any remaining unexpended Road Home Homeowners Assistance program funding. Furthermore, resources that have not been expended in other programs that are not targeted to meet these needs should be considered for this purpose. This includes the $650 million currently allocated for the Individual Mitigation Measures Program.