



**Administrative Missteps and Lack of
Expertise Led to Delays and \$3.7 Million in
Unnecessary State Spending for Hurricane
Matthew Recovery**
and
**Follow-Up Memo on Disaster Recovery
Spending**

A presentation to the West Virginia Joint Legislative
Committee on Flooding

September 24, 2019

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Background of PED

- Program Evaluation Division (PED) is a central, nonpartisan staff office of the North Carolina General Assembly
- Charged with determining if programs are
 - Efficient
 - Effective
 - Implemented in accordance with law.

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Directive and Products

- Session Law 2018-5 directed PED to examine the Disaster Recovery Acts (DRA) of 2016 and 2017
- Primary report presented to the NC PED Oversight Committee
 - Presented in May 2019, forwarded to other relevant committees, and legislation has been drafted
- Follow up report was based on this primary report and was presented to the same committee
 - Presented in June 2019, and this was forwarded to other committees and the State Attorney General

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Acronyms

Acronym	Meaning
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant-Disaster Recovery
DOC	Department of Commerce
DPS	Department of Public Safety
DRA	Disaster Recovery Acts
HUD	U.S. Department of Housing and Urban Development
NCORR	N.C. Office of Recovery and Resiliency

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Summary of Main Report

- Six findings and four recommendations in the areas of
 - Contracting for CDBG-DR services
 - Expertise and institutional knowledge of implementing CDBG-DR
 - Missed opportunities to fully leverage federal funds
 - Reporting on recovery efforts

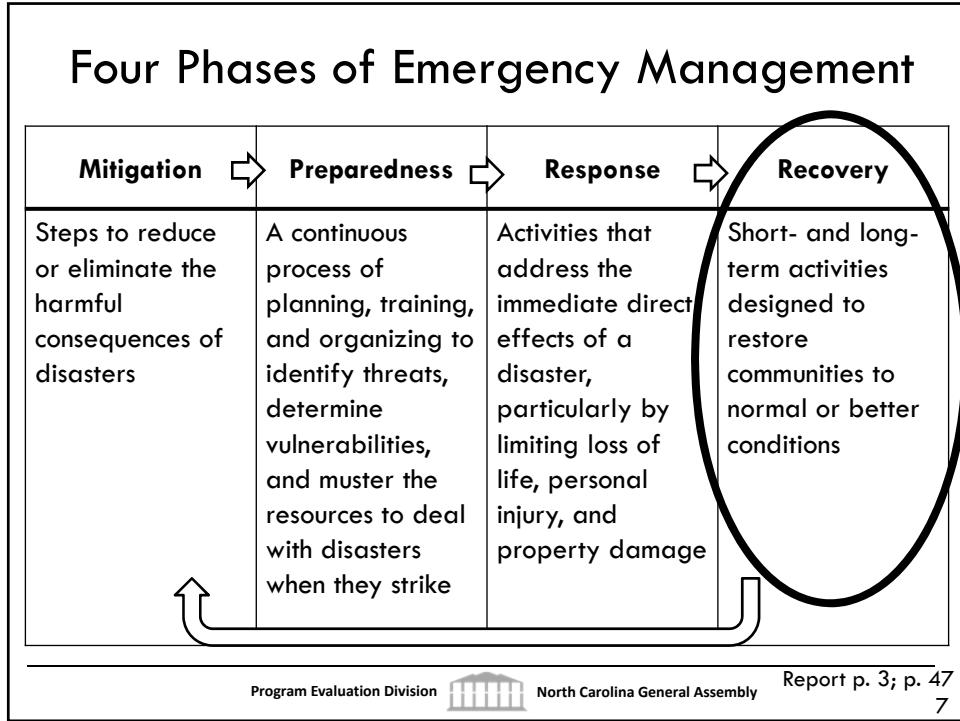
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Background

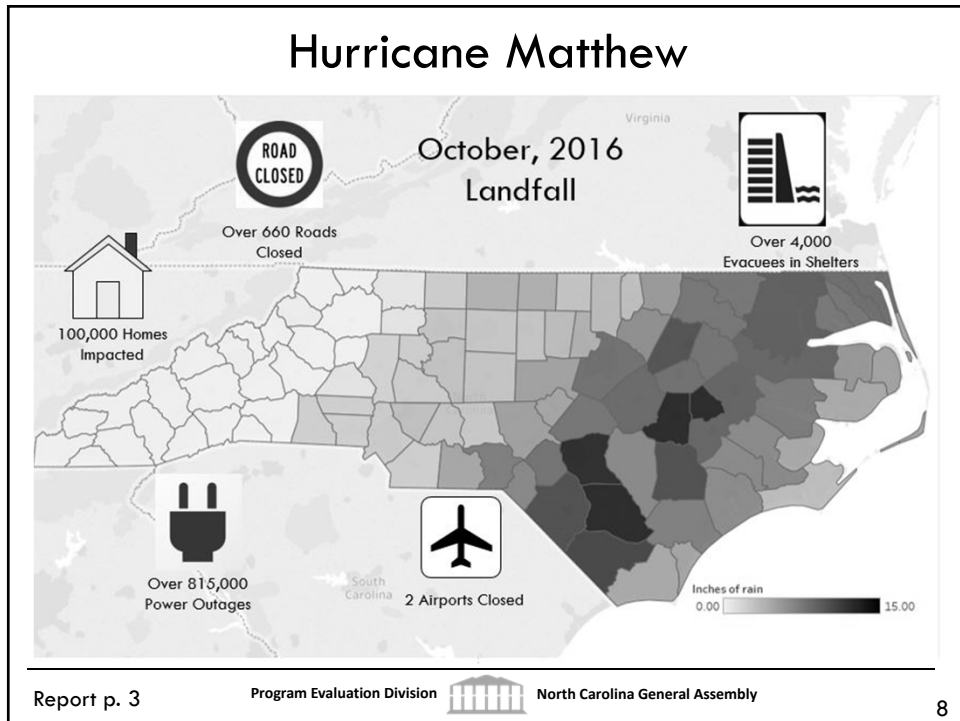
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Hurricane Matthew Disaster Recovery

- Disaster Recovery Assistance is available from both the state and federal governments:
 - State: \$300.9 million appropriated for recovery efforts in Session Laws 2016-124 (DRA 16) and 2017-119 (DRA 17)
 - 18 various “funding streams” across 9 entities
 - Federal: \$914 million committed for housing and infrastructure assistance, with the largest amounts coming from
 - FEMA-Public Assistance-\$386 million
 - CDBG-DR-\$236.5 million

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Findings



Finding 1

CDBG-DR funding—an important source of Hurricane Matthew recovery funds—has been slow to reach recipients and is not meeting federal spending performance targets

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Overview of CDBG-DR

- CDBG-DR is:
 - U.S. Housing and Urban Development (HUD) program
 - Focused on unmet needs for rebuilding, relocating, etc.
 - Somewhat similar to traditional CDBG programs
 - Entirely federally-funded
 - Longer-term in focus than many other funds
- CDBG-DR in North Carolina:
 - State had not received these funds since 1999
 - Commerce has been responsible for CDBG-DR in the past
 - DRA 16 placed this responsibility with DPS

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Distribution of CDBG-DR Funds Has Been the Least Timely of All Recovery Funds

- CDBG-DR funds have been distributed the slowest of federal and state funds for Hurricane Matthew disaster recovery
 - NC had only spent 1% (\$2.6 million) of its \$236.5 million award as of December 2018
 - NC has always been designated as a “slow spender”
- Subsequent findings focus on the reasons for these delays



Finding 2

Several initial contracts to implement CDBG-DR were not compliant with federal regulations, resulting in delays in distributing CDBG-DR funding and \$3.7 million in unnecessary state spending





Noncompliant Contracts for Program Management of CDBG-DR

- January, 2017: ESP Associates is awarded contract for NC's CDBG-DR activities
- November, 2017: State was informed the contract with ESP was noncompliant because:
 - NC DPS relied on a state law that allowed cost to not be a selection factor for program management activities during disasters
 - However, federal regulations only allow this when firms are providing architectural/engineering services.
- Non-compliant contracts led to delays and unnecessary State spending of \$3.7 million



Finding 2: Lessons Learned

- When recovery activities might be reimbursed with federal funds, ensure any state laws relied on for issuing contracts are in compliance with federal regulations





Finding 3

Elimination of housing projects from the Department of Commerce's (DOC) CDBG portfolio depleted institutional knowledge that could have assisted DPS's implementation of CDBG-DR

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A Foundational Understanding of Traditional CDBG is Helpful in Implementing CDBG-DR

- Traditional CDBG program: ongoing, annual, and federally-funded program focused on housing, economic development, public services, and infrastructure
- CDBG-DR: time-limited program and event-focused, but the programs are somewhat similar in terms of
 - Base-line regulations
 - Eligible activities (i.e., housing)

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Refocusing Traditional CDBG Away from Housing Programs Reduced DOC's Institutional Knowledge

- Until 2013, Commerce had a key role in administering the traditional CDBG housing program
- General Assembly recently refocused CDBG funds more towards economic development and infrastructure programs
 - This refocusing led to a reduction in DOC staff with knowledge of traditional CDBG

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Finding 3: Lessons Learned

- Absent a centralized recovery office with staff knowledgeable in CDBG-DR, those implementing disaster recovery need to rely on any available CDBG expertise, even in the traditional program from
 - State Commerce department
 - Local governments
 - Other experts
- Consider an ongoing recovery office that retains institutional knowledge of disaster recovery



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Finding 4

DPS's inexperience and lack of capacity, coupled with various strategic and administrative changes, further contributed to delays in distributing CDBG-DR funds

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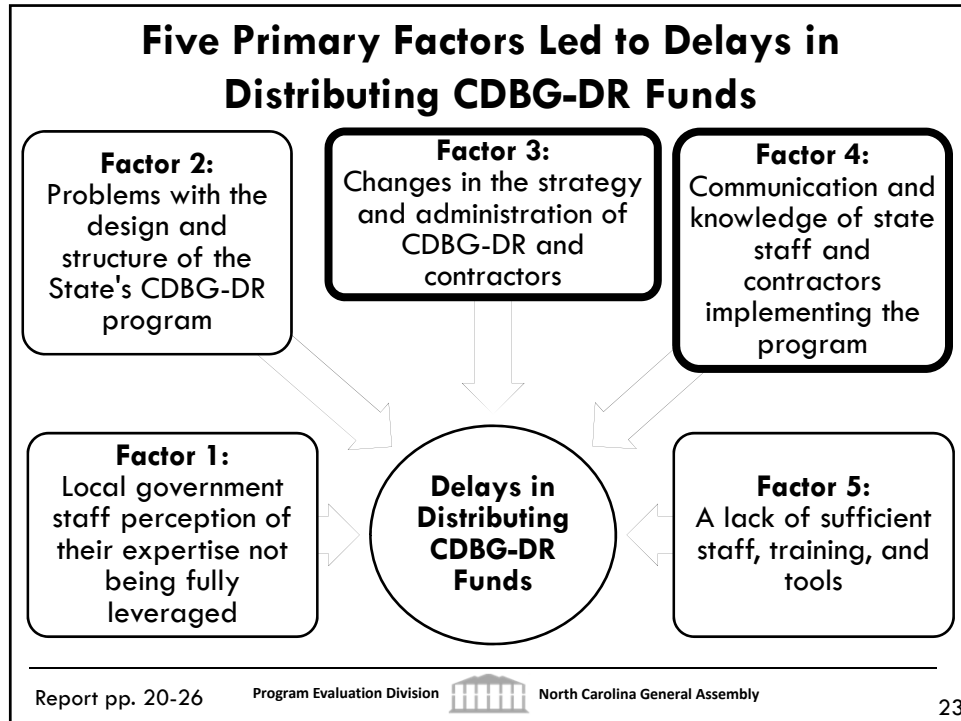
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DPS's Ability to Implement CDBG-DR Was Limited by Pre-Existing Issues

- DPS had no prior experience with administering CDBG-DR, and its ability to manage the program was complicated by
 - State not receiving CDBG-DR funds since 1999, and then on a much smaller scale
 - Depletion of institutional knowledge of the traditional CDBG program within Commerce
- These conditions led to DPS being forced to learn the program during its implementation

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Structure of Newly-Formed NCORR Could Present Similar Challenges in Future Disaster Recovery Efforts

- The North Carolina Office of Recovery and Resiliency (NCORR) was created in 2018 to coordinate the various entities administering disaster recovery funds
- All NCORR positions are time-limited/not permanent; after current recovery efforts expire, the State may encounter many of the same issues as before, including:
 - Loss of institutional knowledge
 - Delays in beginning work
 - Federal compliance issues
 - Recruitment and retention issues

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Finding 4: Lessons Learned

- Learn federal disaster recovery programs before they hit.
- Have an office in place before a storm, as a single entity coordinating recovery efforts
 - Maintain a core number of staff with knowledge of these programs during non-disaster times.
 - CDBG-DR will likely fund these for several years during recovery, minimizing state appropriations to non-recovery times.
- Use available knowledge of the traditional CDBG program
- Have mechanisms in place to ensure timely and substantive feedback from those implementing the program
- Provide planning, training, and sample documents ahead of time and ensure clarity of roles



Finding 5

In its urgency to expedite recovery efforts, the State missed opportunities to fully leverage federal funds for hurricane recovery





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Several Federal Disaster Recovery Programs Require Matching Funds			
Title of Funding	Example Targeted Recovery Population / Area	Match Required	Can Use CDBG-DR for Match
Individual Assistance (FEMA-IA)	Private property	Yes	No
Public Assistance (FEMA-PA)	Governmental infrastructure	Yes	Yes
Hazard Mitigation Grant Program (HMGP)	Private property, governmental infrastructure	Yes	Yes
U.S. Army Corps of Engineers projects for disaster recovery	Traditional CDBG-eligible infrastructure projects (levees, etc.)	Yes	Yes
Community Development Block Grant-Disaster Recovery (CDBG-DR)	Private property, governmental infrastructure	No	N/A

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General Assembly Appropriations Prevented the State from Using Federal CDBG-DR Funds as the Match Source

- When states appropriate funds to meet match requirements, they demonstrate the “need” has been met
- General Assembly appropriated such funds and thus demonstrated it had met such need for both Hurricanes Matthew and Florence
- If such funds had not been appropriated, some portion of \$118 million in State dollars for matches would have been avoidable

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Finding 5: Lessons Learned

- Ensure that staff are knowledgeable about the potential to use CDBG-DR funds for matches:
 - Know the planning and coordination requirements up front since it is complex
 - Require that the legislature be made aware of the potential to use funds for this purpose and weight the challenges and benefits

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Finding 6

Modifying the State's current disaster recovery reporting requirements to include performance metrics could improve the timeliness of fund disbursement, promote accountability, and provide the General Assembly with more practical information on disaster recovery efforts

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Current Reporting Requirements Focus on Spending and Do Not Show Performance

- 2018 Hurricane Florence Recovery Act requires NCORR to collect and report on disaster recovery
 - Focuses on amounts spent
 - Only requires certain entities to report performance-oriented information
- Reporting only spending may not fully convey actual effects on recipients
- Limited required reporting on
 - outputs (i.e., number of applications processed)
 - outcomes (i.e., timeliness of distribution)



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Finding 6: Lessons Learned

- For internal management improvement and legislative oversight, require entities receiving funds to report to the legislature amounts spent as well as :
 - Amounts spent by geographic areas (county, etc.)
 - Standardized metrics (average cost per project, etc.) to allow for comparisons across programs
 - Performance metrics (timeliness, counts of work completed by type, etc.)
 - Consider common data collection instruments to be shared with entities receiving funds



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Report 2: Follow Up Memo

- Committee’s request:
 - For PED staff to look further into the other funds administered by DPS for similar issues

Funding Stream	Primarily Dependent on Another Governmental Entity
State Emergency Response and Disaster Relief Fund (state match for federal disaster programs)	N/A
Emergency Management (housing purposes identified in S.L. 2017-119)	Yes
Emergency Management (resilient redevelopment planning)	N/A
State Emergency Response and Disaster Relief Fund (ensure sufficient funds are available to provide relief/assistance for future emergencies)	N/A
Emergency Management (emergency sheltering and short-term housing)	No

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\$9 Million for Emergency Sheltering and Short-Term Housing

- Example purposes: hotel bills, establishing shelters, etc.
- DPS selected local governments and not-for-profits as recipients, one of which received a sizable portion of these funds, all in the form of lump-sum up-front payments
 - Distributing funds up-front does not adhere to state law
 - Led PED to further explore the non-profit receiving these state funds

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Issue 1

DPS ignored grant-making best practices when it selected the North Carolina Community Development Initiative (the Initiative) as a recipient and did not follow state law when it distributed grant funds to the Initiative

- **Selection.** DPS did not use formal best-practice mechanisms to solicit proposals or select recipients to administer emergency sheltering and short-term housing funds
- **Distribution.** DPS did not follow best practices and state law in making up-front lump-sum payments of \$5.35 million to the Initiative
 - State law requires any award exceeding \$100,000 to or for the use of a nonprofit entity to be made in quarterly or monthly payments

Issue 2

DPS Allowed the Initiative to Spend State Funds on Purposes Not Aligned with Legislative Directive

- Legislative directive appropriated funds for emergency sheltering and short-term housing
 - Example: some funds within this stream allocated to other entities were spent on hotel bills
- However, projects funded by the Initiative included:
 - Funding new construction projects
 - Buying land for future development
 - Funding for mixed-use development
- Agreement between DPS and the Initiative did not specify that projects would be undertaken strictly for the benefit of hurricane survivors, and they do not appear to be



Issue 3

Failure to Recapture Unencumbered Funds and Potentially Disallowed Expenses

- DPS has not recaptured an estimated:
 - \$877,218 in unencumbered funds
 - \$389,419 in potentially disallowed spending
 - Example: Pre-payment of service agreements outside the agreement period
- DPS staff report they have begun this process

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Issue 4

Funds designated for sheltering and short-term housing for hurricane survivors appear to be used to financially benefit the Initiative, real estate developers, and private landlords

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Issue 5

State-supported loan principal may not be returned to the State and it is unclear if interest accrued has been used in accordance with state law.

- The Initiative issued \$732,450 in loans using funds from DPS's grant
 - Upon repayment, the principal for loans may be retained by the Initiative and not returned to the State
- Unclear how Initiative plans to use interest repaid by loans
 - Initiative says it will use as specified in the Agreement (reinvest in similar projects)
 - Does not appear to be any oversight by DPS to ensure this is done

Other Matter

- **It appears the Initiative is engaging in additional transactions after its grant agreement with DPS has ended, which potentially could be in conflict with**
 - Its agreement with DPS, and
 - The emergency sheltering and short-term housing purposes outlined in the legislative directive



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Lessons Learned

- Ensure purposes for disaster recovery outlined in legislation are clear and specific
- Consider including requirement that those receiving funds must be directly affected by the disaster, and this be monitored and reported
- Ensure monitoring mechanisms in place to identify and recoup disallowed spending
- Ensure consideration if grants are made that will financially benefit organizations (making a grant to an entity for them to loan funds out, but no provision to require it to be paid back to the State)

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Lessons Learned

- Ensure contracts or grants contain a clawback provision
 - Consider including timeframe for reimbursement to the State upon notification for unspent balances
 - Consider clarifications on encumbered or obligated expenses if not subjected to clawback
- Consider monitoring efforts to ensure grant-close is finalized
- Don't do up-front payments

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Report available online at
www.ncleg.net/PED/Reports/reports.html

