Administrative Missteps and Lack of Expertise Led to Delays and $3.7 Million in Unnecessary State Spending for Hurricane Matthew Recovery

Final Report to the Joint Legislative Program Evaluation Oversight Committee

Report Number 2019-05

May 20, 2019

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May 20, 2019

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Raleigh, NC 27601

Honorable Co-Chairs:

Session Law 2018-5, Section 5.6(n) directed the Program Evaluation Division to examine the implementation of the 2016 and 2017 Disaster Recovery Acts, passed in response to Hurricane Matthew and the western wildfires of 2016. Per the legislative directive, PED examined the State's structure for distributing state and federal funds, whether structural modifications could increase the efficiency of fund distribution, and if modifications to disaster recovery reporting requirements would provide the General Assembly with more complete and better-integrated information.

I am pleased to report that the Department of Public Safety and the Department of Commerce cooperated with us fully and were at all times courteous to our evaluators during the evaluation.

Sincerely,

John W. Turcotte
Director

PROGRAM EVALUATION DIVISION

NORTH CAROLINA GENERAL ASSEMBLY

May 2019 | Report No. 2019-05

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Summary

The North Carolina General Assembly directed the Program Evaluation Division (PED) to examine timeliness and reporting requirements for the Disaster Recovery Acts of 2016 and 2017 related to Hurricane Matthew recovery. Hurricane Matthew delivered significant human and financial damage to 50 North Carolina counties in October 2016.

In response, the General Assembly appropriated $300.9 million for disaster recovery across the two acts. Additionally, the State received significant federal assistance, which included Community Development Block Grant-Disaster Recovery (CDBG-DR) funds. CDBG-DR is a U.S. Department of Housing and Urban Development (HUD) program. Session Law 2016-124 required CDBG-DR funds received by the Department of Commerce (DOC) be transferred to the Department of Public Safety (DPS), creating a dual-management structure for CDBG-DR wherein DOC remained the grantee acting on the State's behalf for CDBG-DR administration but with DPS serving as the subrecipient agency implementing CDBG-DR.

Among the various entities administering disaster recovery funds for Matthew, CDBG-DR funds have been distributed in the least timely manner; the State had only spent 1% ($3.4 million) of its total award ($236.5 million) as of December 2018. Several issues delayed distribution of CDBG-DR funds:

- non-compliant contracts for implementing CDBG-DR, which resulted in the State spending approximately $3.7 million unnecessarily;
- limited institutional knowledge within state government for implementing CDBG-DR; and
- program design issues and changes in implementation strategies.

In its urgency to expedite recovery efforts, the State missed opportunities to fully leverage federal funds. HUD allows CDBG-DR funds to be used as the non-federal share for various disaster recovery funds that require a state match when states demonstrate a need. General Assembly appropriations demonstrated the State could meet this need, disqualifying it from using federal CDBG-DR funds to fulfill match requirements. PED also found information reported to the General Assembly on disaster recovery efforts is not performance-oriented and does not allow for comparison and identification of areas needing improvement.

The General Assembly should: require DPS to establish mechanisms to ensure future CDBG-DR contracts are HUD-compliant, develop standardized performance metrics, and notify various entities when CDBG-DR funds might be used for matching purposes when applicable; consider a core number of DPS staff as permanent employees to ensure preparedness for recovery efforts; and modify DPS's statutory reporting requirements.

Purpose and Scope

Session Law 2018-5, Section 5.6(n) directed the Program Evaluation Division (PED) to examine the implementation of the 2016 and 2017 Disaster Recovery Acts, passed in response to Hurricane Matthew and the western wildfires of 2016.[1,2] Per the legislative directive, PED examined the State's structure for distributing state and federal funds, whether structural modifications could increase the efficiency of fund distribution, and if modifications to disaster recovery reporting requirements would provide the General Assembly with more complete and better-integrated information. In addition, this evaluation includes an examination of federal Community Development Block Grant-Disaster Recovery (CDBG-DR) funds. This evaluation focused primarily on Hurricane Matthew recovery efforts because of the significant legislative interest in these particular funds (discussed in more detail in the Background).

This evaluation addressed four research questions:

1. What are the processes for distributing state and federal disaster recovery funds for Hurricane Matthew?
2. To what extent have state and federal disaster recovery funds for Hurricane Matthew been distributed to qualified recipients in a timely manner?
3. Do current reporting requirements for distributing Hurricane Matthew funds provided sufficient and adequate information for assessing performance?
4. What, if any, impediments exist for distributing CDBG-DR funds for Hurricane Matthew?

The Program Evaluation Division collected and analyzed data from several sources, including

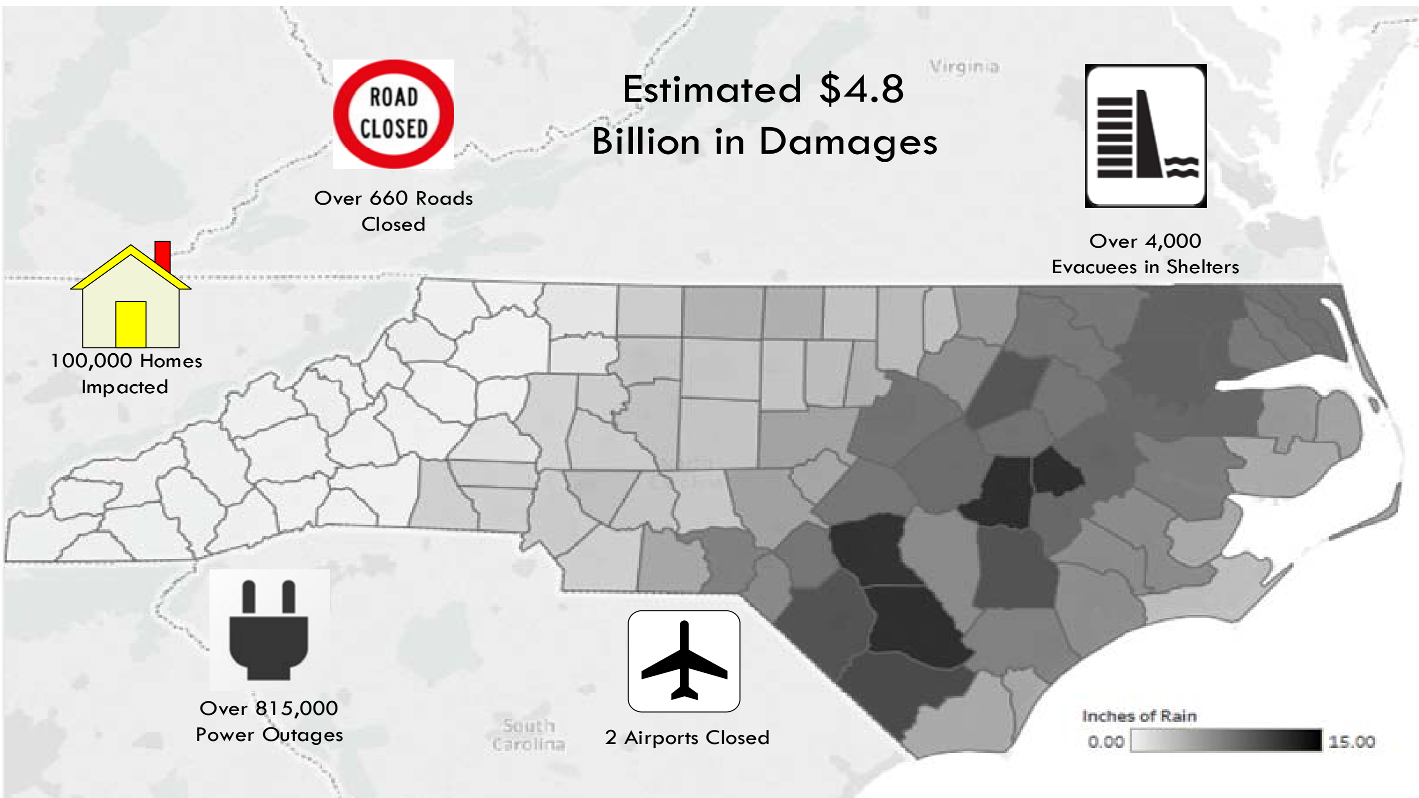
- interviews with and queries of
    - the North Carolina Department of Public Safety's Division of Emergency Management (DPS);
    - the North Carolina Department of Commerce;
    - the Office of State Budget and Management;
    - local government staff in areas affected by Hurricane Matthew;
    - entities involved in administering funds appropriated from the 2016 and 2017 Disaster Recovery Acts; and
    - not-for-profit entities that conduct disaster recovery work;
- survey of county managers receiving state funds and/or administering federal funds (n = 50);
- Requests for Qualifications, Requests for Proposals, and corresponding contracts for disaster recovery services;
- financial data from the Office of the State Controller;
- interviews with practitioner, academic, and national emergency management and disaster recovery experts; and
- data on the distribution of federal disaster recovery funds.

[1] N.C. Sess. Law 2016-124.
[2] N.C. Sess. Law 2017-119.

Background

As a state bordering the Atlantic Ocean, North Carolina is vulnerable to tropical storms and hurricanes. Such storms most profoundly affect coastal communities, yet they may damage even central and western counties. As Appendix A shows, North Carolina has experienced several natural disasters in the last 20 years. One of these disasters, Hurricane Matthew, occurred in October 2016. State experts contend that no storm in North Carolina since Hurricane Floyd in 1999 has matched the impact of Matthew, which was frequently described as a 500-year storm. [3] Exhibit 1 shows several of the effects of Hurricane Matthew.

Exhibit 1: Hurricane Matthew Produced Significant Damage to 50 North Carolina Counties



Source: Program Evaluation Division based on data from National Oceanic Atmospheric Association.

Disaster recovery is one of the four phases of emergency management and is the primary focus of this evaluation, as it often yields the most significant government interest, action, and funding.[4] Although there are four phases of emergency management—mitigation, preparedness, response, and recovery—the legislation directing this study required the Program Evaluation Division to focus on disaster recovery (see Appendix B for a fuller description of each of the four phases). Many actions taken during this phase involved financial assistance provided by a variety of governmental, for-profit, and non-profit organizations. In 2018, the General Assembly established the North Carolina Office of Recovery and Resiliency (NCORR) in an effort to coordinate disaster recovery efforts among the various entities administering such funds (discussed in more

[3] The State experienced another 500-year storm with Hurricane Florence in September 2018.
[4] N.C. Sess. Law 2018-5, Section 5.6(n).

detail in Finding 3). During disaster recovery, both Congress and state legislatures appropriate funds to assist those affected.

- **Federal assistance.** Exhibit 2 lists the primary federal programs available to citizens to address disaster recovery needs beyond what is provided by private insurance and the total amounts awarded by each program in the wake of Hurricane Matthew. As the exhibit shows, many of these programs focus on citizen housing needs and governmental infrastructure needs.

Exhibit 2: Five Primary Federal Programs Provided $914.2 Million for Housing and Infrastructure Assistance in the Aftermath of Hurricane Matthew

Administering Governmental Unit	Funding Program	Example Targeted Recovery Population / Area	Total Award
Federal Emergency Management Agency	Individual Assistance (FEMA-IA)	Private property	$ 124,603,843
Federal Emergency Management Agency	Public Assistance (FEMA-PA)	Governmental infrastructure	386,228,108
Federal Emergency Management Agency	Hazard Mitigation Grant Program (HMGP)	Private property, governmental infrastructure	83,833,159
U.S. Army Corps of Engineers	U.S. Army Corps of Engineers projects for disaster recovery	Traditional CDBG-eligible infrastructure projects (levees, etc.)	83,000,000
U.S. Department of Housing and Urban Development	Community Development Block Grant-Disaster Recovery (CDBG-DR)	Private property, governmental infrastructure	236,529,000
Total			**$ 914,194,110**

Note: This exhibit only reflects primary federal housing and infrastructure programs; therefore, it is not exhaustive.

Source: Program Evaluation Division based on information from HUD and FEMA.

- **State assistance.** Several states choose to supplement federal funds with state funds, particularly for citizens or entities that are not eligible for federal funds. These funds have less stringent requirements and are often used for specific purposes such as fulfilling matching requirements states must meet in order to draw down certain federal funds. It is important to ensure state funds are used carefully so as to avoid spending them where federal funds could have been used. The General Assembly appropriated $300.9 million for Hurricane Matthew recovery in 2016 and 2017. The various entities that received these funds will be discussed in Finding 1.[5]

[5] Portions of the total allocations from the Disaster Recovery Act of 2016 (N.C. Sess. Law 2016-124) and the Disaster Recovery Act of 2017 (N.C. Sess. Law 2017-119) contained provisions for recovery efforts relating to the western wildfires of 2016.

Given the likelihood of future natural disasters affecting North Carolina, delays in distributing certain disaster recovery funds, and legislative interest in ensuring the timely distribution of funds, this evaluation explored the factors contributing to delays, methods of mitigating such factors, and ways to ensure the General Assembly has adequate information on recovery efforts.[6]

Findings

Finding 1. Community Development Block Grant-Disaster Recovery funding—an important source of Hurricane Matthew recovery funds—has been slow to reach recipients and is not meeting federal spending performance targets.

To summarize the finding below, most funds appropriated for Hurricane Matthew disaster recovery have been distributed in a relatively timely manner, with the exception of Community Development Block Grant-Disaster Recovery (CDBG-DR) funds. As of December 2018, the State has only spent 1% of its $236.5 million CDBG-DR allocation, and has never been labeled as an on-pace spender.[7] This finding is the basis for several other CDBG-DR-related findings in this report that explain why these funds have been distributed in such an untimely manner.

Of the various funding sources appropriated for Hurricane Matthew recovery, Community Development Block Grant-Disaster Recovery (CDBG-DR) assistance has been particularly slow in being distributed. State and local sources of funding are often not sufficient to cover the full costs of recovery following a natural disaster that are not otherwise covered by FEMA funds. CDBG-DR relieves the strain on state and local budgets to cover the unmet needs of recovery. These funds are particularly important because

- CDBG-DR represents a significant amount of resources for recovery funding,
- federal awards for CDBG-DR are not tied to a state match, and
- as finding 5 of this report shows, CDBG-DR can be used as a non-federal match source for other federal disaster recovery funding provided the State can demonstrate an unmet need and demonstrate that CDBG-DR funding would not supplant already appropriated funds.

CDBG-DR is administered by the U.S. Department of Housing and Urban Development (HUD); it provides funds to cover the unmet needs of a state and is primarily intended to assist those with low to moderate income (LMI) levels.[8] These funds assist those affected by natural disasters in the following areas:

[6] N.C. Sess. Law 2018-5, Section 5.6(n).
[7] As of March 2019, the State has spent 3.1% ($7.36 million) of its $236.5 million CDBG-DR allocation.
[8] To obtain CDBG-DR funds, states must compile and provide a monetary value for their unmet needs. This information, along with the state's proposed method of administering CDBG-DR funds, is collected in an Action Plan that the state submits for approval by HUD (discussed in more detail in Finding 5).

- housing,
- economic development,
- infrastructure,
- small business development, and
- state technical assistance.

After Hurricane Matthew, HUD initially awarded North Carolina $198.5 million in CDBG-DR funds for hurricane relief. HUD subsequently increased the total CDBG-DR award to $236.5 million.

States are the HUD-recognized entities in charge of administering CDBG-DR but can choose how to manage their programs; some states centralize duties whereas others delegate responsibilities to local governments. Regardless of the structural arrangement, entities conducting administrative functions for CDBG-DR funds generally follow the eight steps outlined in Exhibit 3.

Exhibit 3

Entities Generally Follow Eight Steps in Administering and Distributing CDBG-DR Funds

CDBG-DR Steps
Step 1: Complete the Application
Step 2: Eligibility Review
Step 3: Duplication of Benefits Review
Step 4: Inspection and Environmental Review
Step 5: Grant Review
Step 6: Contractor Selection
Step 7: Construction
Step 8: Program Completion

Source: Program Evaluation Division based on data from DPS.

More than two years since Hurricane Matthew made landfall, the State has spent only 1% of its total $236.5 million CDBG-DR award.[9] Exhibit 4 shows the average number of days to distribution and percentage of disaster recovery funds spent as of September 2018 for each of the funding streams that either were appropriated by the General Assembly or, as is the case with CDBG-DR, were awarded by the federal government but are implemented by a state agency and do not require matching state funds.[10] Among these funding sources, excepting those that received a federal extension, CDBG-DR funds have taken the most time to reach survivors.[11]

[9] As of March 2019, the State has spent 3.1% ($7.36 million) of its $236.5 million CDBG-DR allocation.

[10] Timeliness of several funds is not an applicable measure as these are one-time distributions made to sub-entities specified in law (i.e. Community College System funds) or are specified to be maintained as a reserve account. In addition, some funds appear to take a long period of time from application to distribution because in some cases grantees begin work upon notification of their award and are reimbursed upon completion of such work; thus, the date of disbursement would be well beyond the initial date work began on the project. Further, several funds did not provide the Program Evaluation Division with data that would allow for calculating the timeliness of distribution; the timeliness of these funds are indicated as "Data Unavailable" in the exhibit.

[11] None of the Department of Agriculture and Consumer Services dike repairs funds have yet been distributed, but these are not considered untimely as FEMA provided the agency with an extension.

Exhibit 4: CDBG-DR Are Slowest to Be Distributed Among Disaster Recovery Funds

Implementing Agency	Funding Source	Total Amount Spent (9/2018)	Total Award	Percent Spent	Average Days to Distribution
	State Funds				
Department of Public Safety (DPS)	State Emergency Response and Disaster Relief Fund: State match for federal disaster programs	$ 49,783,649	$ 88,528,370	56%	N/A – shown in other programs
	Emergency Management: Housing purposes identified in S.L. 2017-119	2,560,871	20,000,000	13	Data unavailable
	Emergency Management: Resilient redevelopment planning	9,579,104	11,500,000	83	N/A-no approval required
	State Emergency Response and Disaster Relief Fund: Ensure sufficient funds are available to provide relief/assistance for future emergencies	N/A	10,000,000	N/A	N/A-reserve account
	Emergency Management: Emergency sheltering and short-term housing	8,651,855	9,000,000	96	Data unavailable
Dept. of Agriculture and Consumer Services (DACS)	Division of Soil and Water Conservation: Stream debris removal, nonfield farm road repairs, and funding for farm pond and damn repairs	6,486,063	32,200,000	20	272
	North Carolina Forest Service: Repairs and Operational expenses at Claridge Nursery, wildfire response, and disaster-related timber restoration	17,690,485	25,500,000	69	Data unavailable
	Dike repairs at the Cherry Research Farm	0	250,000	0	N/A-FEMA extension
Golden LEAF	Grants to local governments and nonprofits for infrastructure	5,304,083	30,000,000	18	277
	Grants to local governments for infrastructure	6,711,581	20,000,000	34	343
	Grants to entities for small business loans	4,309,928	5,000,000	86	69
Dept. of Commerce (DOC)	Rural Economic Development Division: Grants to local governments for infrastructure	3,041,298	10,000,000	30	345
	Assessment of need for business assistance funds	5,230	250,000	2	N/A-no applicants
Community Colleges	Enrollment decline offsetting	2,699,830	2,700,000	100	N/A-single disbursement
Dept. of Env. Qlty. (DEQ)	Disaster-related infrastructure and cleanup needs	4,227,216	10,000,000	42	67
Dept. of Insurance (DOI)	Office of the State Fire Marshall: Grants to volunteer fire departments	69,523	1,000,000	7	465
Housing Fin. Agcy. (HFA)	Housing Trust Fund: Eligible Chapter 122E projects	4,115,130	20,000,000	21	189
Lumber River COG	Housing Programs and Assistance: Development and construction of low-income multi-family housing units in the Town of Fair Bluff	193,703	5,000,000	4	N/A-single project
	State-Total	**$125,429,549**	**$300,928,370**	**43%**	
	Federal Funds Not Requiring Match				
Department of Public Safety	Community Development Block Grant Disaster Recovery (CDBG-DR)	$2,559,847	$236,529,000	1%	**>730**
	Federal-Total Funds Not Requiring Match	**$2,559,847**	**$236,529,000**	**1%**	
	Total-All Funding Sources	**$253,418,945**	**$817,885,740**	**31%**	**N/A**

Notes: State funds only include those from the Disaster Recovery Acts of 2016 and 2017. Amounts spent are as of September 2018. None of the DACS dike repairs funds have yet been distributed, but these are not considered untimely as FEMA provided the agency with an extension. DOC completed its $250,000 appropriation to assess the need for business assistance funds through a sample survey of impacted businesses which cost $5,229; the unspent funds were returned to the State. DOC grants for infrastructure are fully encumbered to grantees.
Source: Program Evaluation Division based on data from entities implementing state or federal disaster recovery funds and HUD.

North Carolina has consistently been identified as a slow spender of CDBG-DR funds for Hurricane Matthew. CDBG-DR funds are intended to be the payer of last resort; eligibility is often based on not qualifying for or not receiving assistance from other federal programs. Thus, distribution of these funds is expected to take somewhat more time than other sources.[12] Nonetheless, HUD still establishes spending performance targets for CDBG-DR funds based on timeliness criteria. HUD classifies the timeliness of entities' spending on a monthly basis by placing them in one of four categories:

- **New/first year entities:** those entities with a new grant; performance is not reported for the first 12 months.
- **Slow spender entities:** those entities spending less than 10% of the monthly pace required to fully use the grant by the target closeout date.
- **On-pace entities:** those entities spending greater than 10% of the monthly pace required to fully use the grant by the target closeout date.
- **Ready-to-close entities:** those entities that have started the closeout process.

Both North Carolina and South Carolina were allocated CDBG-DR funds for Hurricane Matthew recovery. Although the damage South Carolina experienced as a result of Matthew, its corresponding CDBG-DR award, and its subsequent scope of work were less than North Carolina's, North Carolina has been much slower to spend its allocation.[13] As Exhibit 5 shows, South Carolina has been classified as being on pace for seven consecutive months since April 2018 and had spent 22% of its award as of December 2018. In comparison, North Carolina has been designated as a slow spender for 10 consecutive months and has spent only 1% of its total award.[14]

[12] The current CDBG-DR financial report provides the spending status for 73 grantees, of which 46 (63%) are designated as Slow Spenders.
[13] South Carolina was also allocated CDBG-DR funds for Hurricane Joaquin (October 4, 2015), and was therefore a year ahead of North Carolina in establishing a CDBG-DR program. In addition, whereas South Carolina's program is focused primarily on replacing Manufactured Home Units (MHU), North Carolina's program seeks to provide recovery and resiliency measures for all LMI home types including rehabilitation, reconstruction, and new construction of single family homes, which takes considerably longer than replacing MHUs yet provides greater resiliency for North Carolina citizens.
[14] As of March 2019, the State has spent 3.1% ($7.36 million) of its $236.5 million CDBG-DR allocation.

Exhibit 5: North Carolina Has Never Been Designated as an "On Pace" CDBG-DR Spender

State	Spending Timeliness by Month			CDBG-DR Spending (as of December 2018)			
	New/ First Year	Slow Spender	On Pace	Total Amount Awarded	Total Remaining Balance	Total Amount Spent	Percentage Spent
North Carolina	44% (n = 8)	56% (n = 10)	0% (n = 0)	$236,529,000	$233,153,327	$3,375,673	1%
South Carolina	50% (n = 9)	11% (n = 2)	39% (n = 7)	$95,086,000	$74,193,160	$20,892,840	22%

Note: New/First Year entities are entities with a new grant; performance is not reported in the first 12 months. Slow Spender entities are those spending less than 10% of the monthly pace required to fully use the grant by the target closeout date. On-Pace entities are those spending greater than 10% of the monthly pace required to fully use the grant by the target closeout date. Ready-to-Close entities are those that have started the closeout process. Spending designations reflect the following grants: North Carolina_B-16-DL-37-0001 and South Carolina_B-16-DL-45-0001. As of March 2019, the State has spent 3.1% ($7.36 million) of its $236.5 million CDBG-DR allocation.

Source: Program Evaluation Division based on data from HUD.

Because of the considerable funds involved and the significant number of citizens and local governments that have yet to receive CDBG-DR, subsequent findings in this report explore factors contributing to delays in distributing these disaster recovery funds. Specifically, this evaluation shows that the distribution of CDBG-DR funds has been delayed because of issues involving

- contracting missteps **(Finding 2)**,
- loss of institutional knowledge **(Finding 3)**, and
- lack of experience and overall capacity **(Finding 4)**.

In addition, this report demonstrates where the State

- did not maximize the use of CDBG-DR funds **(Finding 5)**, and
- could enhance its reporting requirements (**Finding 6)**.

Finding 2. Several initial contracts to implement CDBG-DR were not compliant with federal regulations, resulting in delays in distributing CDBG-DR funding and approximately $3.7 million in unnecessary state spending.

To summarize the finding below, the procurement methods used by DPS to secure the initial contract for implementing CDBG-DR were not compliant with federal regulations. As a result, DPS had to re-bid its contract, likely causing delays in distributing CDBG-DR funds and requiring the State to spend approximately $3.7 million in state funds to cover costs that could have been paid with federal grant funds had contracts been compliant. These procurement issues set the stage for future challenges in implementing CDBG-DR.

Community Development Block Grant-Disaster Recovery (CDBG-DR) grantees and subrecipients procuring goods and services with disaster recovery grant funds must ensure that they are following all statutory and regulatory program procurement requirements. In the aftermath of a disaster, state and local officials need to work quickly to restore infrastructure and public services and to provide assistance in making necessary repairs for businesses and homeowners. However, in their haste to expedite assistance, grantees and subrecipients that do not follow all CDBG-DR program requirements may find themselves non-compliant, which can lead to states being forced to use state funds as well as grantees and subrecipients having to repay federal funds.

Following Hurricane Matthew, the Department of Public Safety (DPS) issued a Request for Qualifications (RFQ) for assistance with recovery. Because of the scale, complexity, and lack of state capacity (discussed in more detail in Finding 2) in implementing CDBG-DR and various other federal disaster recovery programs, DPS issued a RFQ in December 2016 to contract for assistance with short-term and long-term rehabilitation, mitigation, resilient redevelopment, and recovery from Hurricane Matthew.[15,16]

The State anticipated using federal CDBG-DR funds to pay for the contractor's work for CDBG-DR tasks as permissible by federal law. These tasks include

- designing, organizing, and constructing pre-award Program Oversight and Management Capability Analysis and a Grant Management Capability and Risk Management Plan as required by CDBG-DR;
- developing the State's unmet needs assessment;
- developing state and regional Action Plans;
- coordinating, conducting, and executing all required outreach and public comment;
- managing, generating, and submitting all financial and project reports for state and local government;
- generating grant management reports for all components for DPS senior staff and other stakeholders; and
- identifying and generating proposed grant narratives, metrics, and financial requirements for all eligible projects designed to promote resilient redevelopment efforts.

The State's initial contract for implementing CDBG-DR and performing certain disaster recovery activities for Hurricane Matthew was not compliant because DPS followed state procurement methods that were inconsistent with federal procurement regulations. Although contracting for CDBG-DR activities is common in other states, North Carolina had not been granted a CDBG-DR allocation since 2003 and therefore had limited experience with CDBG-DR contracting rules. Federal funds can be used to pay for these contracting services. DPS contracted with ESP Associates, Inc.

[15] In addition to CDBG-DR, the request included work for the Hazard Mitigation Grant Program (HMGP) and Federal Emergency Management Agency Flood Mitigation Assistance.
[16] Broadly, the services procured included: data acquisition and analysis; hazard modeling, mapping, and risk assessment; short-term emergency repair, rehabilitation and temporary housing; resilient redevelopment planning and design; program and project management; grants management; data and application development and management; and administrative and technical support.

(ESP) on January 16, 2017 as the primary contractor for CDBG-DR activities.[17] ESP is a multi-discipline engineering design and consulting firm that provides clients with civil engineering, surveying, planning/landscape architecture, geosciences, environmental, subsurface utility engineering, and construction engineering inspection services.

In November 2017, HUD determined that the State's contract with ESP and its subcontractors was non-compliant. The State's contract with ESP was appropriately procured for the development of county resilient redevelopment plans, but additional program management functions performed were not compliant for the reasons discussed below:

1. **Cost was not a selection factor.** The Federal Register notice for Hurricane Matthew requires grantees to have in place a procurement process that adopts federal procurement standards or uses equivalent state standards. The State awarded its contract to ESP in accordance with state law that allows DPS to select a vendor based on demonstrated competence and qualification for the professional services required without regard to cost. State law allows the State and local units of government procuring architectural, engineering, and surveying services during times of emergency involving health and public safety to waive cost considerations as part of procurement procedures (see Appendix C).[18]

   However, the federal code of regulations states that

   > "a non-federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. *The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort*" [Emphasis Added].

   Although ESP is an engineering firm, the services described in the RFQ for the management and administration of CDBG-DR funds are not engineering or architectural services. As shown above, federal procurement regulations permit cost to not be a factor only when procuring architectural and engineering services from architectural and engineering firms. Federal regulations require cost to be a selection factor when considering these firms to provide non-architectural or non-engineering services such as program

[17] Additional contracted services were procured with AECOM, the Department of Information Technology, and the North Carolina United Way.
[18] N.C. Gen. Stat. § 143-64.31

management or administrative services, as was the case with the State's contract with ESP.

Because DPS relied on a state law that is not equivalent to federal regulations and allows consideration of cost to be waived in awarding a contract to an engineering firm for CDBG-DR program management services rather than engineering services, HUD determined that the procurement method was not federally compliant.

2. **Cost analyses were not performed.** Incorrectly waiving cost considerations additionally led to the State failing to perform requisite cost analysis, which represented another breach of federal compliance. Federal code requires grantees to perform a cost or price analysis in connection with every procurement action, including contract modifications, in excess of $150,000. Although the method and degree of the analysis is contextually dependent, the grantee (the State) must make independent estimates of cost prior to bids being received. Because cost was not a consideration during vendor selection for this RFQ, the analysis was not performed. These issues were confirmed in a memorandum to the Department of Commerce in November 2017.

Contract compliance issues have led to delays in implementing CDBG-DR funding and have resulted in DPS spending state appropriations to cover costs that could have otherwise been paid with federal grant funds. The urgency to implement Hurricane Matthew recovery efforts and DPS's inexperience with the CDBG-DR program resulted in DPS using procurement methods that were inconsistent with federal program regulations and led to both delays in distributing funds and unnecessary state expenditures.

- **Delays in implementation.** The State's non-HUD-compliant contract with ESP led to delays in distributing CDBG-DR funding because the contract had to be re-bid. The timeline in Exhibit 6 illustrates the delays resulting from the non-compliant contract. DPS initially contracted with ESP in January 2017 as the prime contractor to implement CDBG-DR. The State was notified by memo in November of that year that the contract was not compliant and that state efforts to find assistance in implementing CDBG-DR disaster recovery funds would need to be re-procured in order for federal funds to be used for these services. DPS's second RFQ led to awarding of a new contract to Innovative Emergency Management, Inc. (IEM) in June 2018. The time from procurement of the initial contract to the current contract was 515 days. A change in contractor likely contributed to changes in the strategy used to implement CDBG-DR, which, as Finding 4 discusses, is also believed to have led to delays in distributing funds.

Exhibit 6: Contract Compliance Issues for Implementing CDBG-DR Led to Delays of More Than One Year

October 8, 2016
Hurricane Matthew makes landfall in North Carolina

December 10, 2016
1st appropriation from Congress

December 20, 2016
North Carolina issues RFQ to solicit bids to administer CDBG-DR funds

December 23, 2016
HUD press release announces $198.5 million for NC

January 16, 2017
North Carolina awards the contract to administer CDBG-DR funding to ESP

January 18, 2017
1st Federal Register Notice from HUD (State has 90 days to submit an Action Plan)

April 21, 2017
Action Plan submitted to HUD

May 5, 2017
2nd appropriation from Congress

June 5, 2017
Original Action Plan for initial $198.5 million approved by HUD

June 22, 2017
Sub-recipient agreement (SRA) between Commerce (pending grantee) and NC Emergency Management (NCEM) approved

August 1, 2017
HUD press release announces additional $37.9 million for NC

August 7, 2017
2nd Federal Register Notice from HUD

August 15, 2017
HUD approves Commerce as the grantee allowing for expenditure of funds

November 2017
Applicant intake begins

November 7, 2017
Action Plan Amendment #1 submitted to reflect the additional funds from the 2nd appropriation

November 10, 2017
State receives notification that the contract with ESP is not compliant with federal procurement regulations with recommendations to rebid the contract

January 5, 2018
North Carolina issues second RFQ to solicit bids to administer CDBG-DR funds

February 9, 2018
3rd appropriation from Congress ($168 million in mitigation funds)

March 15, 2018
HUD approves Action Plan Amendment #1, which allows for the expenditure of all $236.5 million

April 9, 2018
Action Plan Amendment #2 submitted

April 11, 2018
HUD announces $168 million available for mitigation activities – still no Federal Register Notice as of March 25, 2019

June 15, 2018
North Carolina awards the contract to administer CDBG-DR funding to IEM

515 Days

January 2019
Action Plan Amendment #3 submitted to HUD to allow for greater flexibility in Hurricane Matthew programs

February 21, 2019
Action Plan Amendment #3 approved, which allows for greater flexibility in Hurricane Matthew programs

Source: Program Evaluation Division based on information from DPS.

- **Unnecessary state expenditures.** Non-compliance of this contract with ESP for CDBG-DR services, as well as separate contracts with AECOM, the United Way of North Carolina, and the Department of Information Technology, resulted in unnecessary state expenditures totaling approximately $3.7 million.[19] Because these contracts were non-compliant, the vendors were not eligible to be paid with federal CDBG-DR grant funds. As a result, the State was forced to cover the cost of these vendors with state appropriations. Had the contract been compliant with federal procurement regulations, these costs could have been paid with federal CDBG-DR funds.

Finding 3. The elimination of housing projects from the Department of Commerce's CDBG portfolio depleted institutional knowledge that could have assisted DPS's implementation of CDBG-DR.

To summarize the finding below, the elimination of CDBG housing-related activities and the reduction in staff versed in traditional CDBG program operations diminished institutional knowledge and experience that likely could have assisted in implementing CDBG-DR, thereby contributing to delays in distributing CDBG-DR funds following Hurricane Matthew. The recently established North Carolina Office of Recovery and Resiliency (NCORR) has staffed nearly 70% of its available positions, including leadership staff who have experience working with the U.S. Department of Housing and Urban Development (HUD). NCORR continues to supplement its CDBG-DR implementation capacity with subject matter experts as allowed by state law, thus establishing institutional knowledge upon which the State can rely for future disaster recovery efforts.

The traditional Community Development Block Grant (CDBG) program is similar to the Community Development Block Grant-Disaster Recovery (CDBG-DR) program. The traditional CDBG program provides government entities with federal funds for various housing, public services, and economic development activities to address the needs of communities—referred to as entitlement communities—with proportionally large populations of citizens classified as low to moderate income.

CDBG housing activities share important similarities with CDBG-DR, particularly in the following areas:

- a shared mission of delivering housing services to the target population of low-income and moderate-income families;
- a working relationship with HUD policies and regulations pertaining to housing and construction contractor procurement, selection, and administration; and

[19] Actual unnecessary state expenditures were $3,665,564 as of March 31, 2019, of which approximately $2.5 million was for ESP, $918,638 was for AECOM for compliance issues similar to those encountered by ESP, $203,879 was for the North Carolina United Way for an American Sexual Health Association subcontract, and $233 was for the Department of Information Technology for disallowed charges relating to a state cell phone.

- a relationship with and knowledge of local housing needs, including areas prone to flooding and possible hazard mitigation projects.

States and entitlement communities and municipalities that receive traditional CDBG funds maintain staff that are familiar with the HUD requirements, policies, and regulations surrounding CDBG administration. Because CDBG-DR administrative networks, regulatory requirements, and project activities are so similar to those of the traditional CDBG program, particularly its housing activities, these staff represent a valuable resource for entities implementing and administering CDBG-DR funds. Exhibit 7 shows the extent to which the regulations, target populations, and programmatic requirements of CDBG and CDBG-DR are similar. In particular, the federal regulations that guide both programs, 24 CFR 570, are identical. Additionally, both programs require an Action Plan to be developed.[20]

[20] Although the two programs are similar, there are differences, particularly in the fund disbursement process. Traditional CDBG funds are dispensed annually to either the state, county, or municipal entity. CDBG-DR funds are awarded following natural disasters; thereafter, a notice is placed on the Federal Register depicting the size of the award and its intended purposes. Whereas CDBG-DR funds are event-specific. Although these schedules of fund disbursement differentiate the two programs, the traditional CDBG's annual disbursement means that staff develop and maintain experience and familiarity with CDBG programmatic requirements, policies, and corresponding challenges.

Exhibit 7: Administration of CDBG and CDBG-DR Are Similar in Important Aspects

Comparison Element	CDBG	CDBG-DR
Statutory Authority	• Housing and Community Development Act (HCDA) of 1974, as amendment • Annual appropriation acts	• Supplemental appropriation provides funds for specific disasters/years • HCDA provides basic framework
Primary Objective	• Viable communities through provision of decent housing, suitable living environments, and economic opportunities	• Disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization
Regulations	• 24 CFR 570	• 24 CFR 570 • Federal Register Notices for each CDBG-DR appropriation • Appropriation allows HUD to waive HCDA provisions and add alternatives
Grantees	• States • Entitlement cities and counties • Insular areas (including USVI)	• States • Appropriation may give HUD option for local government awards (entitlements plus insular areas)
Funds Allocation Process	• Statutory formulas in section 106 of HCDA	• Appropriation provides guidance • HUD allocates by using FEMA/SBA data to identify most impacted and distressed areas • HUD has wide discretion
Eligible Activities	• Housing • Public Services • Real Property Improvements • Public Facilities • Economic Development	• Same as CDBG • Appropriation allows HUD to waive HCDA provisions and add alternatives
Administration & Planning Costs	• Capped at 20% of grant plus program income	• Appropriation provides up to 5% for administration • Extensive planning costs permissible
Application	• Grantee submits annual Action Plan to HUD • Plan is accepted unless HUD identifies defined problems	• Appropriation requires grantee to submit Disaster Recovery Action Plan to HUD • HUD must affirmatively approve plan providing opportunity to address HUD concerns
Overall Benefit	• 70% of CDBG funds expended must benefit low-to-moderate income persons	• Appropriation may retain 70% level or may reduce it • HUD may reduce the 70% level per waiver/alternative authority based on compelling need

Notes: USVI stands for United States Virgin Islands, FEMA stands for the Federal Emergency Management Agency, and SBA stands for Small Business Administration.

Source: Program Evaluation Division based on information from HUD.

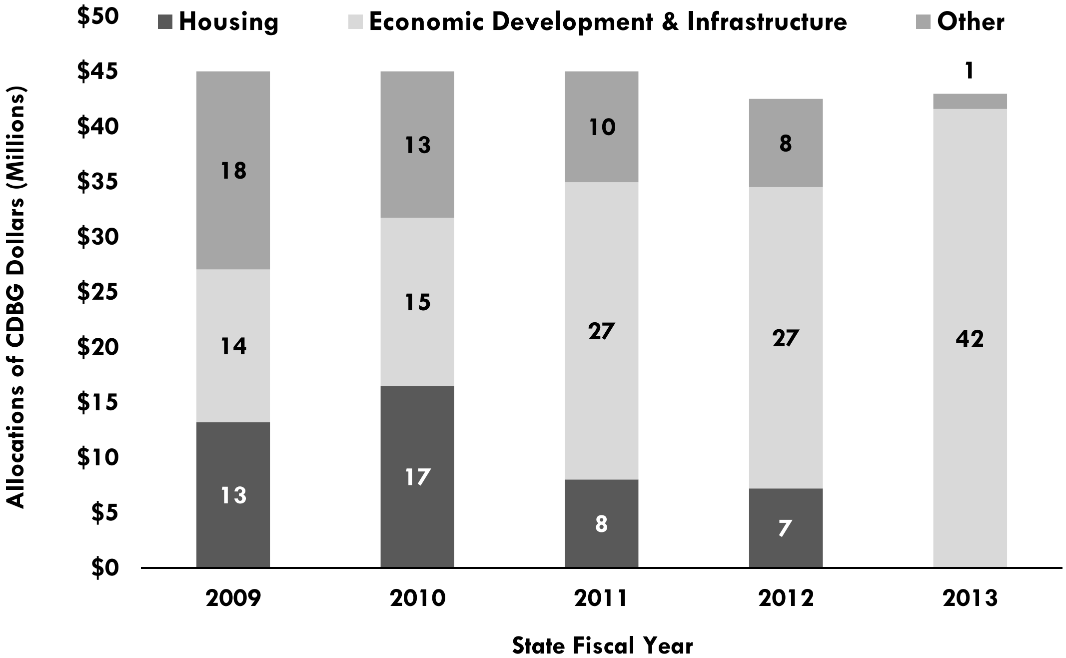
Although there are similarities between traditional CDBG programs and the CDBG-DR program, there are important differences. In particular, CDBG-DR is not an ongoing Congressionally authorized program, but instead is administered through a seven-year process. In addition, DPS staff state that HUD rules guiding CDBG-DR change frequently over time and are significantly more complex than the rules guiding traditional CDBG. Furthermore, CDBG-DR requires recipients to conduct a process to ensure there are no duplication of benefits, including verifying all federal, state, local, private, and volunteer funding sources, which is not required for traditional CDBG programs. Another difference DPS staff report is that CDBG-DR requires a single electronic record system whereas traditional CDBG records are often maintained in paper files by the county. Despite these differences, local government staff report the State would have benefited from relying on traditional CDBG expertise in designing the CDBG-DR program (discussed in more detail in Finding 4).

The Department of Commerce (DOC) formerly had a role in administering CDBG housing activities, but in recent years the General Assembly has begun to focus on non-housing-related CDBG activities. Each year, the State receives funds for eligible traditional CDBG activities in the areas of housing, economic development, infrastructure, small business development, and technical assistance. Historically, the Department of Commerce was the lead agency facilitating interactions between CDBG entitlement communities and HUD. As a result, DOC had several staff with knowledge of HUD regulations and the general administrative components involved in managing CDBG and providing assistance to local governments.

However, the General Assembly, which determines the programs for which CDBG funds can be used, has gradually moved away from using CDBG funds for housing programs and more toward economic development and infrastructure projects, which state agencies other than DOC manage. As Exhibit 8 shows, the General Assembly began reducing DOC's role in administering traditional CDBG in 2009 and instead began to require CDBG funds be focused more on economic development and infrastructure projects for entitlement communities rather than on housing programs.[21] From 2010 to 2011, the budget for housing was reduced by more than half, from $16.5 million to $8 million. The legislature eliminated the last housing program in 2013 and directed the majority of CDBG funds toward economic development and infrastructure as administered by the Department of Environmental Quality.

[21] N.C. Sess. Law 2009-451.

Exhibit 8: The State No Longer Holds a Substantial Stake in Traditional CDBG Housing Activities



Note: "Other" includes State Administration, Urgent Needs, Small Business Development, Community Revitalization, North Carolina Catalyst, State Technical Support, Capacity, and Housing Development categories of CDBG spending.

Source: Program Evaluation Division based on S.L. 2009-451, S.L. 2010-31, S.L. 2011-145, S.L. 2012-142, and S.L. 2013-360.

Correspondingly, the number of DOC staff administering and providing support for traditional CDBG shrank from 36 to 10 employees between 2013 and 2016 as a result of retirements, reductions in force, and staff transferring to other agencies due to the uncertainty surrounding DOC's administration of CDBG programs. In 2017, DOC was again granted approval to administer CDBG housing programs; however, building staff capacity, including hiring and training new staff, will take time and staffing needs are currently being met by temporary workers.[22] Continuing to cultivate expertise in CDBG housing programs likely would have significantly minimized delays in implementing CDBG-DR funds that occurred because of the steep learning curve DPS experienced when it began managing the program (discussed in more detail in Finding 4).

As it stands, DPS continues to staff the recently established North Carolina Office of Recovery and Resiliency (NCORR), and a primary focus has been obtaining staff with experience in CDBG-DR. In particular, DPS hired a former Deputy Chief of Staff and Chief Operations Officer from HUD to lead NCORR's daily activities, and reports it has staffed nearly 70% of its available positions, modeling its activities on best practices from other states. However, as Finding 4 discusses, all NCORR positions are time-

[22] N.C. Sess. Law 2017-57, Section 15.1(a) approved $10 million for the CDBG Neighborhood Revitalization Program.

limited, which puts the State at risk of potentially again encountering the same issues of depleted institutional knowledge.

Finding 4. The Department of Public Safety's (DPS) inexperience and lack of capacity, coupled with various strategic and administrative changes that occurred during implementation, further contributed to delays in distributing CDBG-DR funds.

To summarize the finding below, DPS was tasked with implementing CDBG-DR, but inexperience and a lack of capacity led to delays in distributing CDBG-DR funds. Frequent strategic and programmatic shifts, a lack of sufficient resources and tools, and poor communication between stakeholders also contributed to delays. The newly-established Office of Recovery and Resiliency presents opportunities to avoid many challenges encountered during Hurricane Matthew recovery, but the time-limited nature of the office's positions may limit its effectiveness.

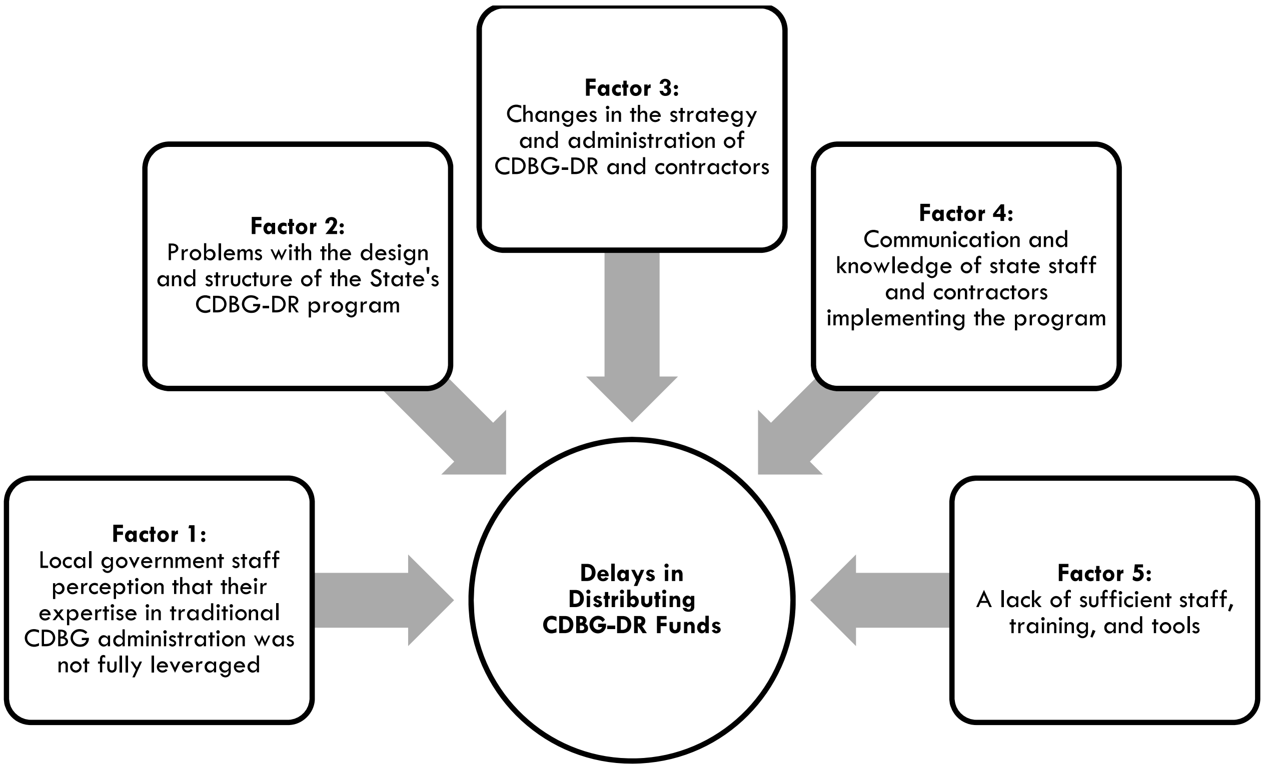
As discussed in the Background, disaster recovery is distinct from disaster response. In North Carolina, DPS has long administered disaster response efforts, particularly those involving Federal Emergency Management Agency-Individual Assistance (FEMA-IA) and Federal Emergency Management Agency-Public Assistance (FEMA-PA) programs. In addition to these responsibilities, the Disaster Recovery Act of 2016 directed DPS to implement the Community Development Block Grant-Disaster Recovery (CDBG-DR) program.

DPS's ability to implement CDBG-DR, a program with which it had no prior experience, was further complicated by two other pre-existing issues, leading to delays in distributing CDBG-DR funds.

1. The State had not received CDBG-DR funds in recent years. Although there have been several powerful natural disasters in North Carolina in recent years, the only disaster that even approached the level of impact experienced by the state as a result of Hurricane Matthew was Hurricane Floyd in the late 1990s. As a result, the aftermath of Matthew represented the first time in recent memory in which the State had to design and implement a CDBG-DR program on such a large scale.
2. As Finding 3 discusses, the Department of Commerce's expertise in managing a similar HUD program (traditional CDBG) had been depleted due to a re-focusing of CDBG funds towards non-housing purposes. Now charged with implementing CDBG-DR, DPS could therefore no longer rely on DOC's prior experience and expertise in the traditional CDBG program, even though there are differences in the two programs.

DPS's inexperience with the parameters of CDBG-DR and lack of internal resources led to the department being forced to learn the program while implementing it, which subsequently created other issues that caused delays. Lack of familiarity and institutional knowledge on the part of DPS and its contractors led to the post-Matthew CDBG-DR program being designed and implemented simultaneously. These conditions created further challenges involving communication breakdowns and strategic shortcomings that caused further delays in distributing CDBG-DR funds. Exhibit 9 and the following sections identify and detail five specific factors that caused these delays.

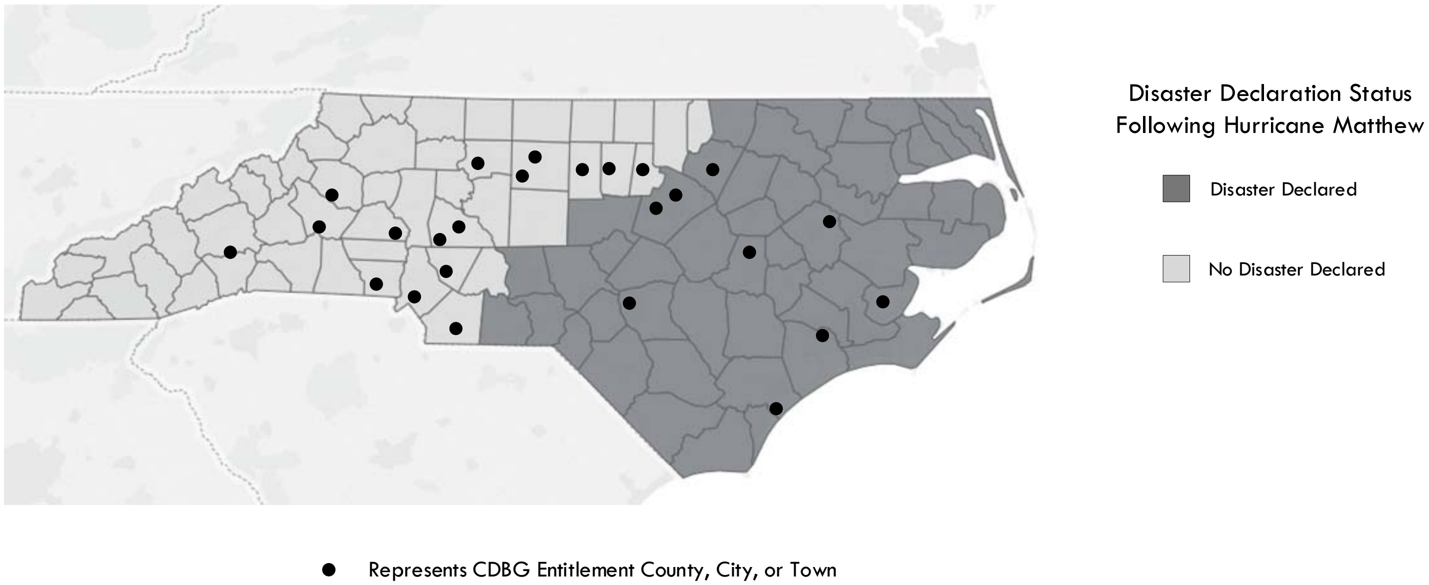
Exhibit 9: Five Primary Factors Led to Delays in Distributing CDBG-DR Funds



Source: Program Evaluation Division based on a survey of county managers, interviews, and a review of documents and data provided by DPS and DOC.

- **Factor 1: Local government staff perceive that their expertise with administering traditional CDBG, which is similar to CDBG-DR, was not fully leveraged.** As discussed in Finding 3, administration and implementation of traditional CDBG programs is somewhat similar to the CDBG-DR program, particularly in terms of the federal regulations both programs must follow. In addition, both programs require the development of an Action Plan to guide how the managing entity plans to administer and spend funds. Many local governments across North Carolina, including both counties and municipalities, are designated as entitlement communities and administer CDBG activities within their jurisdictions.[23,24] As Exhibit 10 shows, nine of these entitlement communities are located in areas affected by Hurricane Matthew.

Exhibit 10: Several Entitlement Communities, Which Have Experience with the Traditional CDBG Program, Are Located in Areas Affected by Hurricane Matthew



Note: Cumberland County is the only county designated as an entitlement community, but there are several other cities and towns designated as entitlement communities within the areas affected by Hurricane Matthew, and several of these were within counties designated as Most Impacted and Distressed.

Source: Program Evaluation Division based on information from the Department of Commerce.

Although, as discussed in Finding 3, there are several differences between traditional CDBG and CDBG-DR program, such as CDBG-DR not being a continuous program and requiring processes to ensure no duplication of benefits for recipients, the traditional program provides a foundation for implementing CDBG-DR.[25] As Exhibit 11 shows, the majority of local government managers surveyed by the Program Evaluation Division believe that the State and its contractors would have benefited from more fully leveraging their expertise in administering the traditional CDBG

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[23] Entitlement communities are either principal cities of Metropolitan Statistical Areas, other metropolitan cities with populations of at least 50,000, or qualified urban counties with populations of at least 200,000. A grantee's annual funding allocation is determined by a statutory dual formula that uses several objective measures of community needs, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other metropolitan areas.

[24] Although HUD defines "Most Impacted and Distressed Counties" following a disaster, Cumberland County is the only entitlement community within the four most affected counties; however, several other municipalities within these four affected counties are entitlement communities and have experience with traditional CDBG activities even though they are not recognized as distressed themselves.

[25] As Finding 3 discusses, there are several differences between traditional CDBG and CDBG-DR programs; unlike traditional CDBG, because CDBG-DR follows Major Disaster declarations in which Stafford Act programs have distributed federal resources in the impacted regions, all CDBG-DR grantees must conduct a complex Duplication of Benefits (DOB) analysis on each individual project (at the level of analyzing individual homeowner receipt of federal funds) before calculating a CDBG-DR award; the size and scale of a post-disaster CDBG-DR program requires tiered environmental reviews and a common system of record maintained at the state level; and CDBG-DR experiences regular programmatic changes through Federal Register notices.

program and from incorporating their knowledge in the development of the State's CDBG-DR Action Plan.

Exhibit 11

County Managers Do Not Believe DPS and Its Contractors Fully Leveraged County Staff Expertise in Administering CDBG-DR

Element of Local Government Staff Utilization	Percentage of County Managers Agreeing
County staff knowledge of CDBG-DR was not adequately leveraged in implementing CDBG-DR	63%
The State's Action Plan did not fully leverage county staff's knowledge of CDBG and HUD compliance policies	63%
The State's Action Plan would have benefited from incorporating county staff knowledge of CDBG and HUD programs	79%

Source: Program Evaluation Division based on a survey of county managers.

However, DPS staff stated that local governments worked under subrecipient agreements, and after experiencing difficulty with implementing CDBG-DR and with mutual coordination, many local governments voluntarily turned over implementation responsibilities to the State, which DPS staff contend was done because of the complexity and scale of the CDBG-DR program, the slow implementation the local governments experienced, and because of advice given to the State by HUD.

- **Factor 2: Problems with the design and structure of CDBG-DR led to delays.** Initially, DPS planned to implement CDBG-DR in a decentralized manner, with local governments completing the majority of related activities. However, local government staff contend the State developed its Action Plan without their substantial input. This perceived lack of communication and consultation with local governments in the CDBG-DR planning phases for Hurricane Matthew recovery is believed by local government managers to have led to a lack of understanding of the roles and responsibilities of the many entities involved, including local governments, state agencies, federal agencies, and contractors. Indeed, according to local government managers interviewed by the Program Evaluation Division, this lack of understanding of roles is the most commonly agreed-upon factor contributing to delays in distributing CDBG-DR funds.

  Furthermore, the manner in which the State planned for CDBG-DR implementation repeats the errors of past disaster recovery efforts, particularly following Hurricane Floyd, in which a recovery program is designed and policies are developed without appropriate assessment of governmental capacity. However, the State has incorporated lessons learned from establishing the complex CDBG-DR program for Hurricane Matthew recovery and DPS staff report that the State is already benefitting from lessons learned as it begins Hurricane Florence recovery efforts.

- **Factor 3: Changes in the strategy and administration of CDBG-DR as well as the change in contractors led to delays.** When implementing a program it is important, to the extent possible, to follow a single consistent strategy; among other benefits, a consistent strategy allows stakeholders to know what is expected of them and allows them to plan accordingly. Although some deviations from an original implementation plan are to be expected, continuous modifications create an environment in which stakeholders and other entities performing activities are frequently unclear as to their roles and responsibilities. In a survey of county managers conducted by the Program Evaluation Division, 82% of respondents believe the State has not implemented a consistent strategy for administering CDBG-DR funds.

  As an example, the State initially designated county governments to perform many of the eight steps for implementing CDBG-DR (see Exhibit 3 in the Background), which meant there were a multitude of arrangements for implementation. However, midway through implementation and based on advice from HUD, DPS and its contractors attempted to convince counties to change which steps they managed and began advocating for a state-centric model, wherein many of the steps would be performed by state-level administrators. Exhibit 12 shows that many counties subsequently altered which steps they actually administered. These shifts meant local government staff conducted unnecessary work in preparation to administer various steps that DPS and its contractors later sought to centralize in the state-centric model. More thorough and consistent planning could have prevented local governments from performing unnecessary work related to CDBG-DR.

Exhibit 12

Most Counties Did Not Conduct CDBG-DR Steps They Had Planned to Administer

CDBG-DR Step	Percentage of Counties Planning to Solely Implement	Percentage of Counties That Actually Solely Implemented
Step 1: Complete the Application	45%	18%
Step 2: Eligibility Review	32%	6%
Step 3: Duplication of Benefits Review	18%	6%
Step 4: Inspection and Environmental Review	3%	6%
Step 5: Grant Review	23%	6%
Step 6: Contractor Selection	50%	53%
Step 7: Construction	50%	53%
Step 8: Program Completion	55%	53%

Source: Program Evaluation Division based on a survey of local government staff and data from DPS.

As shown in the following statements made during interviews with local government staff, several counties contend they could have implemented CDBG-DR themselves, particularly as they felt they had more knowledge of CDBG than DPS.

Quotes from Local Government Staff

"[The] State needs to stay consistent rather than reinventing the wheel every time there is a problem."
-Local Government Staff Member

"Talking with other counties and consulting firms, the counties were kept out of the loop even when it would've been in the State's interest had they kept us informed. The only institutional memory left in the State for CDBG-DR is in the cities and counties."
-Local Government Staff Member

This shifting strategy for implementing CDBG-DR is largely attributable to the change in the contractor DPS enlisted to assist in its administration efforts. As discussed in Finding 2, DPS was notified in November 2017 that its contract with ESP, the prime vendor for CDBG-DR activities, was non-compliant with federal regulations, forcing the State to re-bid the contract, which was subsequently issued in June 2018 to IEM. This change in contractors led to further local government staff frustration as staff had to learn new methods and approaches to implementing the program. A Program Evaluation Division survey found 76% of county managers believe the change in contractors is at least moderately influential in delaying the distribution of CDBG-DR funds.

- **Factor 4: Poor communication and insufficient knowledge on the part of state staff and contractors implementing the CDBG-DR program contributed to delays.** As discussed earlier, local government staff were the parties initially responsible for implementing the CDBG-DR program for Hurricane Matthew. They conducted much of the work on the ground and interacted with citizens for the steps they implemented. In doing so, they had regular communication with the state entity overseeing and coordinating implementation, which in this case was DPS and its contractor. Prompt and accurate communication with state-level experts is important as it prevents unnecessary work by citizens, local government staff, state employees, and contractors, and decreases the likelihood of delays in distributing funds.

  However, several local government staff expressed frustration regarding the responsiveness of DPS and its contractor. For example, county staff informed the Program Evaluation Division that they often were referred and re-referred to various state offices for HUD and CDBG-DR policy clarifications and waited long periods of time for responses. Local government staff contend these delays contributed to overall delays in distributing CDBG-DR funds. One local government staff member relayed the experience of having to inform state staff of compliance issues and receiving contradictory guidance from state staff given the local government staff member's experience with traditional CDBG.

  Anecdotal evidence aside, a survey of local government managers also found concerns on the part of local government staff with the timeliness of communication received from various state agencies and the contractor involved in implementing CDBG-DR. As Exhibit 13 shows, local government managers perceived communication with the contractor to be slowest (60%) among participating entities followed by DPS (44%). The Department of Commerce (DOC) had the highest perceived timeliness in its communications with county staff (50%).

Exhibit 13

County Staff Administering CDBG-DR Perceive Outside Contractor and DPS Emergency Management to Be the Least Timely in Responding to Requests

Entity	Perceived Timeliness of Communication Regarding Administering CDBG-DR Funds		
	Slow	Average	Fast
Department of Public Safety-Emergency Management	44%	28%	28%
Department of Commerce	36%	14%	50%
Governor's Office	18%	36%	45%
Engineers, Surveyors, and Planners (ESP) (Contractor)	60%	20%	20%

Source: Program Evaluation Division based on a survey of local government staff.

- **Factor 5: A lack of sufficient staff, training, and tools contributed to delays in distributing CDBG-DR funds.** As discussed earlier, DPS had never implemented CDBG-DR prior to Hurricane Matthew, there were limited DOC staff with institutional knowledge of traditional CDBG and CDBG-DR programs, and local government staff believe that state entities and the contractor did not fully utilize their expertise with CDBG when designing and implementing the State's plan for administering CDBG-DR.

  During interviews, several local government staff also stated they felt there was limited assistance from the State in terms of knowledgeable staff, training, and sample documentation to assist with implementation. Counties reported that there were few resources within DPS with knowledge of CDBG-DR, which led to the state agency relying heavily on outside contractors to perform much of the work. Regardless of the entity solicited for assistance, local government staff stated that providing local governments with better training and sample documents (i.e., policies and procedures, sample agreements, etc.) would have prevented unnecessary work, ensured consistency in implementation, and likely reduced delays in distributing CDBG-DR funds. Anecdotally, local government staff made the following statements during interviews concerning the lack of sufficient tools provided in administering CDBG-DR:

Quotes from Local Government Staff

"Our county is still waiting on some of these items; we have developed some of our own documents while waiting for templates. The effect has been to systematically and gradually reduce county participation and the benefits thereof, as well as to practically eliminate the expertise of local consultants and staff."
-Local Government Staff Member

"The county staff needs more training in preparation of these programs to ensure we have a good understanding of what documentation, timelines, and formats are expected. This always seemed to change each time we received guidance from the State."
-Local Government Staff Member

Recognizing the challenges encountered during Hurricane Matthew disaster recovery, the General Assembly subsequently created the North Carolina Office of Recovery and Resiliency (NCORR) within DPS to henceforth administer disaster recovery for the State. In establishing NCORR, the General Assembly allocated 45 time-limited positions to manage disaster recovery efforts including the CDBG-DR program.[26] Recently advertised job postings for NCORR indicate that knowledge of housing programs will be a fundamental component of several positions, which local government staff contend DPS did not adequately possess when implementing Hurricane Matthew recovery.

In particular, the creation of NCORR presents an opportunity to mitigate the problem of having multiple state departments involved in implementing CDBG-DR because DOC will no longer be involved. Further, the creation of this specialized office should lead to its staff fostering relationships with county partners in the area of disaster recovery and subsequently decrease reliance on outside contractors.

However, the time-limited nature of NCORR positions puts the State at risk of encountering similar problems in recovering from future disasters as it experienced during Hurricane Matthew. As Finding 3 discussed, the State's expertise in traditional CDBG administration had largely been depleted following a refocusing of CDBG to non-housing purposes, and in the aftermath of Matthew there was no centralized entity charged with coordinating the various disaster recovery programs across agencies and entities. Though the establishment of NCORR will reintroduce CDBG as well as CDBG-DR knowledge into state disaster recovery operations, the time-limited nature of these positions, which are set to be dissolved in 2022, presents the following challenges for future disaster recovery efforts.[27]

- **Potential delays in beginning recovery work.** As discussed earlier, county managers perceive a lack of clarity regarding the roles of various entities as a primary factor affecting the timely distribution of CDBG-DR funds. The establishment of NCORR as the centralized office handling disaster recovery ensures its role is clear for now, but the legislation directing the office's creation specifies that all of its positions are time-limited, meaning the office will effectively be

[26] N.C. Sess. Law 2018-136.
[27] For example, NCORR has already hired leadership with previous HUD experience.

dissolved following the completion of current recovery efforts. To re-open the office after the next large-scale natural disaster, DPS would need to undertake various human resources functions from posting job advertisements to conducting salary negotiations in order to again fill all of the positions necessary to begin recovery efforts. Such delays could present challenges that can be mitigated if a core number of staff are retained.

- **Loss of institutional knowledge.** Because NCORR positions are not permanent, any institutional knowledge and expertise developed during current disaster recovery efforts will be lost when these positions are eliminated. Further, absent a centralized entity responsible for coordination during disaster recovery with staff knowledgeable in CDBG-DR and other disaster recovery programs, the State is likely to again encounter timeliness issues similar to those experienced following Hurricane Matthew.
- **Potential failure to meet monitoring, reporting, and compliance requirements.** Several federal disaster recovery funds require monitoring and reporting beyond the period in which the time-limited positions within NCORR will be filled; it is unclear how these requirements will be satisfied and how compliance will be ensured.
- **Issues with recruitment and retention.** During interviews, DPS staff stated that a challenge in staffing the NCORR office has been convincing staff to accept a time-limited position. DPS staff also report having experienced challenges when attempting to recruit staff to administer other emergency management funds prior to Hurricane Matthew; in response to this concern, the General Assembly appropriated $2 million to NCORR, but did not specify that this funding should support permanent state employees to serve as a core group of staff maintaining institutional knowledge and serving as continuous contacts with various entities administering those programs.

The time-limited, non-permanent nature of NCORR positions puts the State at risk of experiencing problems similar to the ones that plagued Hurricane Matthew recovery should the next major natural disaster occur following the dissolution of those positions. New non-time-limited staff could provide a base level of knowledge and expertise in administering CDBG-DR, which would help ensure many of the issues identified in this finding are avoided in the future.

Finding 5. In its urgency to expedite recovery efforts, the State missed opportunities to fully leverage federal funds for Hurricane recovery.

To summarize the finding below, unlike other federal disaster recovery funding sources, CDBG-DR funds do not require states or local governments to contribute matching funds. Additionally, CDBG-DR funds can be used to meet state or local governments' matching requirements for eligible federal programs if states demonstrate that they themselves cannot meet these requirements and need to use CDBG-DR funds for that purpose. When states appropriate funds for matching purposes for eligible federal programs, they disqualify themselves from using CDBG-DR funds to pay the non-federal share of certain eligible programs. A variety of factors led to the General Assembly appropriating matching funds for Hurricane Matthew disaster recovery, thereby demonstrating the State's ability to meet matching requirements. The General Assembly again appropriated funds for matching purposes approximately two years later for Hurricane Florence recovery, again demonstrating the State's ability to meet matching requirements. Forgoing appropriations to use CDBG-DR funds would have required significant coordination and expertise. Although the precise amount the State could have avoided appropriating is unclear, the State missed opportunities to fully leverage federal funds for both disasters by appropriating funds to meet matching requirements. Even though CDBG-DR funds were not used for matching purposes, the CDBG-DR program remains valuable because it has enabled funds to be distributed to families and communities for recovery purposes.

Community Development Block Grant-Disaster Recovery (CDBG-DR) funds are funds that, unlike those offered by other federal programs, do not require a state match. Federal resources assist states' disaster recovery efforts. As discussed in the Background, there are four primary federal programs that assist with citizen housing and governmental infrastructure needs during disaster recovery. Two of the four sources of federal funds are administered by the Federal Emergency Management Agency (FEMA). These funds provide assistance for losses to private and government property and help mitigate against future losses. Additional funding is available from the U.S. Department of Housing and Urban Development (HUD) via Community Development Block Grant-Disaster Recovery (CDBG-DR) funds.

Generally, federal programs require a 25% non-federal cost share. Both the federal share and the non-federal share must be designated for eligible costs expended in direct support of activities that the administering governmental unit has approved in the grant award. Contributions of cash, third-party in-kind services, materials, or any combination thereof can be accepted as part of the non-federal cost share. Although local governments can sometimes be required to pay the non-federal share for matching requirements, the State has generally taken responsibility for covering these requirements during Hurricane Matthew recovery. As Exhibit 14 shows, CDBG-DR is the only primary federal program that does not require a state or local match.

Exhibit 14: CDBG-DR Is the Only One of Four Primary Federal Recovery Funding Sources That Does Not Require a State Match

Responsible Governmental Unit	Title of Funding	Example Targeted Recovery Population / Area	State or Local Match Required	Potential State Match Requirement for Hurricane Matthew
Federal Emergency Management Agency	Individual Assistance (FEMA-IA)	Private property	Yes	$ 31,150,961
Federal Emergency Management Agency	Public Assistance (FEMA-PA)	Governmental infrastructure	Yes	96,557,027
Federal Emergency Management Agency	Hazard Mitigation Grant Program (HMGP)	Private property, governmental infrastructure	Yes	20,958,290
U.S. Department of Housing and Urban Development	Community Development Block Grant-Disaster Recovery (CDBG-DR)	Private property, governmental infrastructure	No	N/A
	Total			**$148,666,278**

Note: This exhibit does not reflect all federal programs and only includes the primary programs for which CDBG-DR funds can be used to meet matching requirements.
Source: Program Evaluation Division based on information from HUD and FEMA.

HUD allows CDBG-DR funds to be used to meet matching requirements for three federal disaster recovery funding sources. As discussed above, CDBG-DR funds do not require a non-federal match. Additionally, for states that can demonstrate that their matching requirement need has not been met, HUD allows CDBG-DR funds to be used to meet matching requirements for two primary federal programs outlined in Exhibit 14:

- FEMA-Public Assistance (FEMA-PA), and
- FEMA-Hazard Mitigation Grant Program (HMGP).[28]

Federal Emergency Management Agency-Individual Assistance (FEMA-IA) is the only one of the primary funding streams for which CDBG-DR cannot be used as a matching source. When state and local governments can demonstrate matching requirements cannot be met by appropriations, using CDBG-DR funds to meet these needs for other eligible federal programs can provide relief from large financial obligations.

To use CDBG-DR funds for the non-federal match, states must include this proposed spending on other federal programs in their Action Plans and demonstrate the need has not been met. In meeting the non-federal share requirement, states can generally follow one of two approaches to leverage CDBG-DR funds—either a traditional or Global Match. Appendix E presents a description of both approaches and outlines methods states can use to maximize CDBG-DR funds based on the federal program for which these funds are serving as the non-federal share. As the Appendix discusses, using CDBG-DR funds to meet federal matching requirements is complex and requires that several additional administrative tasks be

[28] CDBG-DR funds can be used for U.S. Army Corps of Engineers (USACE) matching requirements as well, but DPS and USACE report there were no projects in North Carolina for Hurricane Matthew recovery that would have been eligible for using CDBG-DR matching funds for such purposes.

performed, such as determining which projects meet certain criteria to qualify for using federal funds for the cost share. These types of considerations make it difficult to determine the exact amount of federal funds that could have been used had state funds not first been appropriated for such purposes.

In any event, states that appropriate funds for disaster recovery matching requirements thereby demonstrate that the matching need has been met. Thus, these states are no longer eligible to use CDBG-DR funds to cover these matching requirements for eligible programs.

In an effort to assist citizens as soon as possible, the General Assembly appropriated funds for matching purposes in the immediate aftermath of Hurricane Matthew and missed an opportunity to instead use federal CDBG-DR funds to meet match requirements. The General Assembly demonstrated its commitment to expeditious recovery by convening in special session in December 2016 to appropriate funds for Hurricane Matthew disaster recovery. In an effort to begin distributing recovery funds as quickly as possible, the General Assembly appropriated $66.2 million to be used for matching purposes in the first disaster recovery package for programs implemented by DPS. Within the disaster recovery package, a stated legislative goal was to "avoid using State funds to cover costs that will be, or likely will be, covered by federal funds."[29]

By appropriating funds to meet the anticipated matching requirements for eligible federal programs for Hurricane Matthew disaster recovery, the General Assembly demonstrated that the State could meet the matching requirement need, precluding the State from using CDBG-DR to cover such costs. When legislatures appropriate funds to meet matching requirements for federal recovery funds, they demonstrate to HUD that the need has been met and that CDBG-DR funds are therefore not necessary to cover such costs. Likewise, when the North Carolina General Assembly appropriated the initial $66.2 million for matching purposes, it demonstrated the State's ability to meet that need and thereby disqualified the State from using CDBG-DR funds as the source of the non-federal match.

The Program Evaluation Division identified several factors that led to the State missing the opportunity to fully leverage federal funds to cover Hurricane Matthew recovery matching requirements. The State missed the opportunity to fully leverage CDBG-DR to meet federal matching requirements due to several factors.

- **Factor 1. The State has not experienced a disaster that warranted the implementation of CDBG-DR in nearly 20 years.** As the Background discusses, the State had not suffered a storm with the severity of Hurricane Matthew in nearly 20 years. Correspondingly, the State had not implemented or administered CDBG-DR in that period, during which time many staff with experience conducting

[29] N.C. Sess. Law 2016-124, Section 5.10. Subsequent disaster recovery appropriations resulted in a total of $88.5 million in appropriations to meet Hurricane Matthew matching requirements for these programs.

such activities had departed state government. In addition, as Finding 2 discusses, the Department of Commerce previously had a role in administering the somewhat similar traditional CDBG program for the State, but the General Assembly's refocusing of these funds from housing to economic development and infrastructure purposes resulted in a reduction of staff with the institutional knowledge that could have been relied upon in potentially considering the use of CDBG-DR funds for matching purposes. This lack of institutional knowledge and experience with funds similar to CDBG-DR coupled with the amount of time that had elapsed since North Carolina last had to undertake disaster recovery efforts of a similar magnitude left the State without experience to rely upon in leveraging these funds to meet matching requirements.

- **Factor 2. DPS was not responsible for CDBG-DR implementation until after the first disaster recovery appropriations were made.** As Finding 4 discusses, the Disaster Recovery Act of 2016 placed responsibility for implementing CDBG-DR with the Department of Public Safety, which had no prior experience with this program. The transfer of responsibilities to DPS became effective only upon the passage of this Act, which was also the legislation by which the State appropriated funds for matching purposes, meaning DPS had no authority with regard to CDBG-DR prior to the passage of the Act. Further, the North Carolina Office of Recovery and Resiliency (NCORR) had not yet been created at the time of appropriations, and even had it been operational, DPS staff stated they would have needed additional finance staff to handle the complexities of using CDBG-DR funds for matching purposes.

- **Factor 3. Using CDBG-DR for a match is not common, and as a result there were limited opportunities to learn from other states' implementation of the match strategy.** During interviews, DPS staff stated that few states have used CDBG-DR funds to cover matching requirements for eligible federal programs even though it is permissible. DPS staff contend the infrequency of storms such as Hurricane Matthew coupled with the complexity of using CDBG-DR funds for matching purposes led to there being little inter-state expertise upon which it could have relied even if the General Assembly had demonstrated the State needed to use CDBG-DR funds for matching purposes.

These and other factors led to the State missing the opportunity to avoid appropriating some amount of state funds to meet matching requirements for which federal CDBG-DR funds could have instead been used. By appropriating such funds, the General Assembly demonstrated it could meet match requirements, making the State ineligible to use CDBG-DR funds for that purpose. Because of the complexity involved in using CDBG-

DR funds for matching purposes, a precise estimate of potential cost avoidance cannot be calculated.[30]

When the General Assembly appropriated funds to meet matching requirements for Hurricane Florence recovery in 2018, it again demonstrated that state funds could meet the need to fulfill the non-federal match for certain federal programs. In the period between Hurricane Matthew's landfall in December 2016 and Hurricane Florence in September 2018, DPS learned much from implementing CDBG-DR for Hurricane Matthew recovery. However, DPS was still in the process of developing its capacity with the program when Florence made landfall.

Again demonstrating its desire to assist citizens as soon as possible, the General Assembly met in a special session in October 2018, less than one month after Hurricane Florence, to provide assistance for those affected. During development of initial disaster recovery appropriations for Hurricane Florence, DPS did not communicate to the General Assembly the potential for using CDBG-DR funds to meet federal matching requirements.[31] Approximately two years after assuming responsibility for the CDBG-DR program, DPS claims it did not have sufficient staff expertise to navigate the added administrative complexity of using CDBG-DR funds for the non-federal match.

Subsequent legislation later in October 2018 created NCORR to address Hurricane Florence recovery efforts.[32] Thus, in the early days of post-Florence recovery, the State still had no single entity charged with coordinating various recovery efforts and had not yet received dedicated staff for such purposes. Regardless, because the General Assembly again appropriated state funds for matching purposes, it again demonstrated that it could meet such needs, and as a result the State will not be eligible to use CDBG-DR funds for matching purposes for Florence recovery, which runs counter to the stated legislative intent of maximizing federal funds wherever possible.[33]

Although CDBG-DR funds were not used for matching purposes for Hurricane Matthew recovery, the CDBG-DR program is still a valuable program in that it has distributed funds to families and communities for recovery purposes, in particular for infrastructure projects, home repairs, and replacement of damaged Manufactured Housing Units.

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[30] Estimated state funds necessary for the non-federal match are based on the percentage of projects anticipated to be paid for using state funds for the two eligible funding areas. Such an estimate could be some portion of, and would likely be significantly less than, the total matching requirements of approximately $118 million, which represents approximately $97 million in requirements for FEMA-PA and $21 million for HMGP. Using the most flexible available approach to matching, the Global Approach, for HMGP only and assuming no other impacts across programs or corresponding effects, one estimate would be some limited portion of up to $21 million.

[31] N.C. Sess. Law 2018-134.

[32] N.C. Sess. Law 2018-136.

[33] N.C. Sess. Law 2018-134, Section 5.7. N.C. Sess. Law 2016-124, Section 5.10. N.C. Sess. Law 2017-119, Section 4. N.C. Sess. Law 2018-136, Section 4.3(a).

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.

To summarize the finding below, there are several benefits to disaster recovery reporting, including promoting accountability and ensuring funds are distributed in a timely manner. The General Assembly has recently revised reporting requirements for entities managing federal or state disaster recovery funds to include specific information on the amount of funds spent, fulfilling a best practice recommendation by national experts. However, the lack of a reporting requirement for performance limits the State's ability to show the effects of spending and further limits its ability to identify areas where assistance could improve the timeliness and accountability of disaster recovery efforts.

Reporting and oversight of public funding for disaster recovery is important because it gives a view into

- how funds are being used for target populations,
- the progression of disaster recovery implementation, and
- the prevention of fraud, waste, and abuse.

Collecting, compiling, and producing reports on disaster recovery can be challenging because these efforts often involve multiple streams of funding, each with differing processes, purposes, and target populations. Developing the appropriate reporting framework (data elements within reports, frequency with which they are produced, and audience receiving such reports) can be difficult when there are numerous stakeholders responsible for administering a variety of state and federal recovery funds. A 2018 report by the Pew Charitable Trusts on best practices for state disaster recovery data management found that many states experience issues in collecting, compiling, and reporting broadly on amounts spent for disaster recovery.[34] Pew also found that reporting amounts spent is challenging because this data is sourced from a multitude of stakeholders responsible for administering different funds—often serving different purposes and populations—and because of a lack of standardized data collection among entities.

Reporting that focuses on amounts spent has several limitations. The Pew report indicates many states cannot accurately report amounts spent on disaster recovery; further, exclusively focusing on the amount of funds distributed fails to highlight nuances of different funding streams.

- **Does not differentiate between the processes governing the administration of each funding stream.** Reports that only include amounts spent do not account for any delays in disbursing funds that may be of no fault of the entity administering the fund. For example, an entity may not have spent any of its funds because the

[34] Pew Charitable Trusts (2018). *What We Don't Know About State Spending on Natural Disasters Could Cost Us: Data Limitations, Their Implications for Policymaking, and Strategies for Improvement.*

distribution of its funds is contingent on the actions of another entity, such as a federal agency.

- **Fails to convey actual effects on recipients.** Although legislators broadly know the purposes for which funds are allocated, reporting only the amounts spent does not tell them the effects of such spending, such as the number of homes elevated or the number of loans awarded.

- **Does not facilitate oversight and accountability that could minimize waste and abuse of disaster recovery funds.** Oversight can be improved with a reporting framework that adopts additional metrics that are specific to the purpose and process of a funding stream. The U.S. Government Accountability Office has reported on waste and abuse of federal disaster funds and has identified issues ranging from inadequate planning and contractor oversight to a need to coordinate with partnering administrative agencies.[35] Such issues can be minimized by requiring entities administering disaster recovery funds to periodically report on performance measures that are both standardized across funding sources as well as on measures that are specific to the individual funding source.

- **Does not facilitate accountability of the various entities administering funds.** Although entities administering disaster recovery funds can easily demonstrate the amount of funds spent, a lack of performance-related data in reports means that legislators are not provided with information on the efficiency or effectiveness of these entities.

  As discussed in Finding 1, the General Assembly appropriated funds to nine different entities following Hurricane Matthew and charged them with administering a total of 18 funding streams, often with differing recovery purposes and target populations. Although there are nine entities specifically tasked with administering funds, this number does not reflect the inter-relationships each entity has with other administrating entities and with other actors such as local governments and nonprofit organizations. Collecting and reporting information on performance metrics across administering entities, such as the timeliness of universal processes (e.g., time to application disposition) or the numbers of projects completed, would provide the General Assembly with valuable information on the most efficient and effective entities administering funds. Such information would inform future disaster recovery appropriations decisions and would identify areas where assistance and corrective action is needed to improve performance.

[35] U.S. Government Accountability Office. (2006). *Hurricanes Katrina and Rita: Unprecedented Challenges Exposed the Individuals and Households Program to Fraud and Abuse; Actions Needed to Reduce Such Problems in the Future.*

Although the reports that the newly formed NCORR is legislatively required to submit are consistent with Pew's recommendations, reporting requirements for NCORR still focus primarily on expenditures and do not provide information on the performance and effects of disaster recovery spending. The legislative mandate for this evaluation directed the Program Evaluation Division to examine current reporting requirements to determine what modifications would provide the General Assembly with more complete and integrated information on disaster recovery efforts.[36] Since the initial Disaster Recovery Act of 2016, the General Assembly has modified reporting requirements on disaster recovery spending but still does not require performance information to be reported. The Office of State Budget and Management (OSBM) served as the initial primary reporting entity, but the General Assembly only charged OSBM with reporting information on expenditures of funds and other elements related to implementation of the Act.

These reporting requirements remained in place until the passage of the 2018 Hurricane Florence Disaster Recovery Act.[37] This legislation established the North Carolina Office of Recovery and Resiliency (NCORR), which is tasked with executing multi-year recovery and resiliency projects and administering funds provided by the CDBG-DR program. NCORR is now the centralized entity specifically tasked with long-term disaster recovery implementation. In addition, the legislation transferred responsibility for collecting data from various entities administering disaster recovery funds from OSBM to NCORR and correspondingly transferred the responsibility for preparing reports for the General Assembly to NCORR. In addition, the law codified many of the reporting requirements recommended by the Pew Charitable Trusts. In particular, reports are now mandated to include spending information

- by source (state or federal funds),
- by geographic area, and
- by disaster recovery phase.

In addition, the legislation requires NCORR to summarize the oversight activities and results achieved from its efforts and those of entities administering funds. The Program Evaluation Division's review of recent reports submitted under this new mandate shows progress toward reporting outputs for each specific funding purpose, such as the number of activities performed specific to each funding source. However, the current reports do not provide standardized information across programs for benchmarking and comparisons of outcome-oriented measures, such as funding distribution timeliness from pre-determined dates or standard activities performed across various sources. Further, as Finding 1 discusses, several funding entities do not collect data necessary to calculate timeliness. It is unclear if funding entities' data hinders the capacity of this information to be reported in a standardized way.

Although efforts have been made to bolster the contents of legislatively

[36] N.C. Sess. Law 2018-5.
[37] N.C. Sess. Law 2018-136.

mandated reports, the State's current disaster recovery reporting requirements still focus largely on the amount of funds spent. As Exhibit 15 shows, the 2018 Hurricane Florence Disaster Recovery Act requires certain entities to report specific additional data, which includes outputs produced from funds appropriated. However, this reporting requirement does not extend to all entities administering disaster recovery funds. Below are examples of agency-specific reporting requirements.

- The Department of Transportation's Division of Highways must report on project status including: percentage complete and timeline for completion; responsible entity, including names of private contractors; and any issues encountered with overall project management and delivery.
- For grants to fire departments, the Department of Insurance must report the number of applications received, number of grantees denied funding, and amounts awarded to each grantee.
- The Board of Governors of the University of North Carolina must report on the implementation of emergency scholarship grants for postsecondary students including the number and type of institutions of higher education allocated funds, the amount of funds allocated to each institution, the number of emergency scholarship grants awarded to students and the amount of those grants, the use of emergency scholarship grant funds, any funds reimbursed to institutions due to coverage of losses by alternative funds, and any remaining funds available for awards in subsequent semesters.
- The North Carolina Coastal Federation must report on the use of grant funds awarded by the Department of Environmental Quality for cleanup of debris.

Exhibit 15: Required Reporting on Disaster Recovery Spending Has Evolved Since Hurricane Matthew But Still Lacks Robust Output and Outcome Metrics

Act	Entity	Required Reporting Information	Frequency	Report To	Report Components			
					Financial	Output	Outcome	Other
Disaster Recovery Act of 2016 Disaster Recovery Act of 2017 2018 Appropriations Act (S.L. 2018-5)	Office of State Budget and Management (OSBM)	• Information on all funds expended or encumbered • Information requested by the Fiscal Research Division	Monthly and *ad hoc*	House/Senate Appropriations Chairs Fiscal Research Division	●	○	○	○
2018 Hurricane Florence Disaster Recovery Act (S.L. 2018-136)	Office of Recovery and Resiliency (NCORR)	• Summary of oversight activities and results achieved • Expenditures by program and by source of funds • Expenditures required to receive federal grants • Total state spending data by agency and by program • Federal reimbursement provided to the State to refund certain federally related spending • Actual and projected state spending data including timelines and milestones classified by disaster phase to include preparedness, response, mitigation, and recovery • Total state spending by program and county, where practicable • Location and job responsibilities of all time-limited state positions created under the Act or paid for with federal funds received as a result of Hurricane Florence	Quarterly	Director of Budget House/Senate Appropriations Chairs Fiscal Research Division	●	◖	◖	●

● = Required Reporting Component ◖ = Reporting Component Partially Required ○ = Reporting Component Not Required

Source: Program Evaluation Division based on a review of state law and reports submitted by OSBM and NCORR.

As these examples show, several agencies must report additional output-oriented information beyond the legislatively required financial elements required of all entities administering state disaster recovery funds. However, the only standardized performance metric reported to the General Assembly across all disaster recovery programs is the amount of funds spent, and therefore there are no standardized performance metrics available to compare the effects of such programs.

Although the State has overcome the challenges highlighted in the Pew Charitable Trust's report, current disaster recovery reporting requirements do not facilitate standardized, higher-level information about the performance and effects of spending. As discussed in Finding 1, South Carolina is consistently identified as being on pace with CDBG-DR spending. During interviews, staff administering South Carolina's CDBG-DR program stated that a key to expediting disaster recovery is placing less emphasis on spending and more on day-to-day outputs and outcomes of program operation. Requiring reports on such outputs and outcomes specific to CDBG-DR and other disaster recovery programs would show the practical effects of spending. Such measures could include but should not be limited to

- publishing and updating program policies and procedures,
- establishing and issuing construction contracts,
- collecting outreach and intake metrics such as appointments and walk-ins,
- collecting data on timeliness of survivor processing (eight steps outlined earlier in Exhibit 3) or other metrics of outputs or activities that are completed by step, and
- collecting data on damage and environmental assessments performed.

Much of the data necessary to report these and other performance metrics is already collected by many entities administering federal and state disaster recovery funds in North Carolina, but the data is not being provided to the General Assembly. In a review of reports submitted to the General Assembly and those maintained internally by entities managing disaster funds, the Program Evaluation Division found several instances in which internal management reports and those submitted to the Governor contain performance data, yet the data is not being conveyed to the General Assembly. Including such performance information would augment current reporting requirements that only pertain to amounts spent and would demonstrate the results of spending in an empirical and practical manner. In addition, standardizing such information across funding sources and entities could provide information to compare performance for similar projects, identify areas in which other entities or NCORR could assist in improving performance, and could provide the General Assembly with more complete information in making funding decisions.

Recommendations

Recommendation 1. The General Assembly should direct DPS to revise its procurement methods to ensure future CDBG-DR contracts are HUD-compliant, report to the General Assembly on these efforts, and report annually on the amount of non-reimbursed state funds used to administer CDBG-DR.

As discussed in Finding 2, in the process of selecting ESP as the prime contractor to administer CDBG-DR activities, DPS relied on a state law that permits cost to be waived as a consideration when contracting with architectural and engineering firms. However, because DPS contracted with ESP to provide program management services rather than engineering services, the contract was determined to not meet HUD regulations and therefore the State was not permitted to pay ESP using federal funds. As a result, state funds paid for services that could have been covered using federal CDBG-DR funds had federal regulations been properly followed.

To avoid this issue in the future, the General Assembly should direct DPS to modify its procurement policies and procedures for disaster recovery program management purposes to require the North Carolina Office of Recovery and Resiliency (NCORR), per state and federal procurement regulations, to always use cost as a factor when pursuing contracts for professional services, and prohibit the Office from using emergency protocols when procuring contracts that are intended to be reimbursed with federal funds. Although NCORR staff report that this procedure is defined in their NCORR certification with HUD, this legislative directive would add an extra layer of assurance that the State does not inappropriately enter into contracts that can be paid for using federal funds. In addition, the General Assembly should require DPS to report annually on the amount of state funds used to pay contractors for performing CDBG-DR activities that could have been paid for using CDBG-DR funds. Such information would promote accountability and ensure the State is maximizing federal funds and not spending state funds unnecessarily. These reports should be submitted to the House and Senate Justice and Public Safety Appropriations Committees.

Recommendation 2. The General Assembly should require the North Carolina Office of Recovery and Resiliency (NCORR) to notify various entities of the potential for using CDBG-DR funds to meet matching requirements immediately following a presidential disaster declaration.

As discussed in Finding 5, various factors led to the General Assembly appropriating funds to cover matching requirements for certain federal programs that, absent such an appropriation, some portion of federal CDBG-DR funds could have covered for Hurricane Matthew and Hurricane Florence recovery efforts. As the finding discusses, it is difficult to determine even an approximate amount of federal funds that could have been used had the General Assembly not demonstrated it could meet matching needs.

The General Assembly should modify NCORR's statutory responsibilities to require the Office to notify the following individuals and entities of the potential for using CDBG-DR funds to cover the non-federal share of matching requirements for eligible programs following a presidential disaster declaration and annually on the first day of the Atlantic hurricane season (June 1):

- the chairs of the House and Senate appropriations committees,
- the Fiscal Research Division,
- the Office of the Governor,
- the State Budget Director, and
- any other state entities deemed necessary.

In requiring this notification, the General Assembly and other stakeholders will henceforth have knowledge of the potential use of federal funds prior to appropriating State funds to meet matching requirements. In particular, the General Assembly would be knowledgeable of the administrative complexities involved in pursuing this course, could solicit input from NCORR regarding any additional requirements necessary to do so, learn of any potential delays that using CDBG-DR might have on potential recipients, and weigh these considerations against the potential financial benefits that could be achieved.

Recommendation 3. The General Assembly should direct NCORR to take actions to ensure its effectiveness, preparedness, and ability to limit unnecessary state spending on current and future natural disasters, and consider establishing core NCORR permanent positions.

As several of the findings in this report discuss, the newly-created North Carolina Office of Recovery and Resiliency (NCORR) has the opportunity to serve as the centralized coordinating entity to assist organizations administering disaster recovery funds and to provide information to the General Assembly on these efforts. The following sections of this recommendation discuss several modifications to NCORR's responsibilities that should enhance its role and provide the General Assembly with more information on disaster recovery efforts.

Staff knowledge of CDBG-DR regulations and policies. As discussed in Findings 3 and 4, DPS was tasked with implementing the CDBG-DR program for Hurricane Matthew disaster recovery despite the fact that neither DPS nor any other state agency had experience with this program more recent than Hurricane Floyd in 1999. Many county managers believe DPS did not have sufficient knowledge of CDBG-DR to ensure the efficient and effective implementation of the program and believe that DPS's failure to leverage local governments' knowledge of the similar traditional CDBG program further limited the success of implementation. Finding 4 further discussed instances of local government staff who were implementing CDBG-DR receiving contradictory information from the State and having to advise DPS and its contractors of potential violations of federal regulations.

As the newly-created North Carolina Office of Recovery and Resiliency (NCORR) continues to establish itself, the General Assembly should require the Office to set forth policies and procedures regarding the minimum competencies of staff who will be administering the CDBG-DR program. A core requirement for such staff should be experience either with traditional CDBG programs or CDBG-DR programs to ensure that staff hired have at least a base knowledge of federal HUD regulations. As part of developing necessary staff competencies, the General Assembly should require NCORR to determine what number of positions would be necessary to be primarily tasked with CDBG-DR administration should the need arise.

Need for permanent positions. As discussed in Finding 4, all positions within NCORR are time-limited positions, likely to dissolve in 2022.[38] Although it may appear there is not an immediate need to designate a core number of positions as permanent, the implications of not doing so could be substantial for future disaster recovery efforts in the state. DPS staff report they have difficulty recruiting staff to fill time-limited positions and further stated that it takes time to develop knowledge of applicable state laws and federal disaster recovery programs and to develop relationships with entities administering such programs. Once the existing positions expire, the State will again lack a centralized staffed office to deploy resources and services after the next large-scale natural disaster, which could delay recovery efforts and present issues regarding monitoring and compliance with federal programs.

The General Assembly should direct NCORR to develop a proposal for permanent staff necessary to maintain continuous required disaster recovery functions and ensure the State is adequately prepared to expand its disaster recovery efforts following the next natural disaster. This proposal should include the classes and number of positions necessary, job descriptions with corresponding salary requirements, and explanations of the necessity for such positions to be permanent. NCORR should submit this proposal to the House and Senate Appropriations committees, the House and Senate's respective Justice and Public Safety Appropriations committees, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by March 1, 2020. Upon the receipt of this proposal, the General Assembly should consider appropriating funds to establish a sufficient minimum number of permanent positions to support this Office and ensure it is ready for the next disaster.

Solicitation and incorporation of experience of various entities administering disaster recovery funds. There are limited formal mechanisms to solicit, incorporate, and distribute best practices or lessons learned from non-DPS entities, such as those receiving direct appropriations, in administering disaster recovery funds. Further, the State lacks a mechanism to collect and standardize the performance of disaster recovery efforts across the various entities receiving funds for these purposes.

The General Assembly should direct DPS to establish a formal mechanism to solicit the input of the various entities receiving disaster recovery funds regarding ways to improve the administration of these funds and programs. To ensure the knowledge gained from these entities is fully

[38] Given anticipated CDBG-DR funding for Hurricane Florence, DPS anticipates these positions to be necessary through at least 2026.

leveraged, the General Assembly should require DPS to develop policies and procedures outlining how such feedback will be incorporated into its own practices, such as through policy or procedure revisions.

Standardized performance metrics and methods of collecting such data across the various entities administering CDBG-DR funds. As Finding 1 and Finding 5 discussed, many entities receiving disaster recovery funds collect information on the citizens and governments seeking and receiving such funds. However, only some entities collect information at a level of detail sufficient to allow for comparisons and identification of areas needing improvement. Much of the information collected by these entities and submitted to NCORR is not in a standardized format such as would allow comparisons to be made based on performance-oriented measures. NCORR has the opportunity to facilitate the collection and analysis of such data among these entities, which would provide the General Assembly with more useful information on disaster recovery efforts.

The General Assembly should require NCORR to develop performance metrics for funding entities, to include but not be limited to

- average timeliness of fund distribution,
- costs for administration and direct service delivery,
- total number of projects, and
- average cost per project.

Collecting this information would assist the General Assembly in directing state funds to entities with demonstrated records of performance and would provide a mechanism for DPS to assist entities with performance deficiencies. Directing this action would also assist in the implementation of Recommendation 4.

Recommendation 4. The General Assembly should revise statutory reporting requirements to require NCORR to report on the performance of federal and state disaster recovery funds.

As Finding 6 discussed, NCORR was established to execute multi-year recovery and resiliency projects and administer funds provided by the CDBG-DR program. Further, NCORR is required to report on specific elements of how disaster recovery funds are spent. However, NCORR is not required to report on any standardized or specific output- or outcome-oriented performance metrics related to such spending. For example, there is no requirement to report general timeliness of fund distribution from time of receiving an application for disaster assistance.

Expanding NCORR's reporting requirements would ensure the General Assembly is getting more comprehensive and integrated information on disaster recovery implementation. The General Assembly should revise state law to expand the elements collected and reported on federal and state disaster recovery funds to include, but not be limited to, the following performance metrics:

- accomplishment of milestones,
- issuance of contracts,

- outreach and intake metrics such as appointments, walk-ins, and applicants,
- survivor processing,
- number of projects at various pre-defined phases at any given time,
- number of projects per geographic area, such as within each county,
- average timeliness by process step, including from application to distribution,
- damage and environmental assessments performed, and
- status of all activities in progress to meet each of the funding streams' operational objectives.

To the extent possible, these data should be specific to each funding stream and provided at the state and county level; in addition, certain measures, such as those for timeliness or measuring outputs of work completed, should be standardized across programs to allow for comparisons and identification of areas needing improvement. Expanding NCORR's reporting requirements would ensure the General Assembly is not only receiving relevant disaster spending information but is in a better position to oversee specific disaster recovery programs.

Appendices

Appendix A: Timeline of Recent Natural Disasters Affecting North Carolina

Appendix B: Description of the Four Phases of Emergency Management

Appendix C: N.C. General Statute 143-64.41

Appendix D: Summary of Approaches for States to Use CDBG-DR Funds to Fulfill the Non-Federal Match

Agency Response

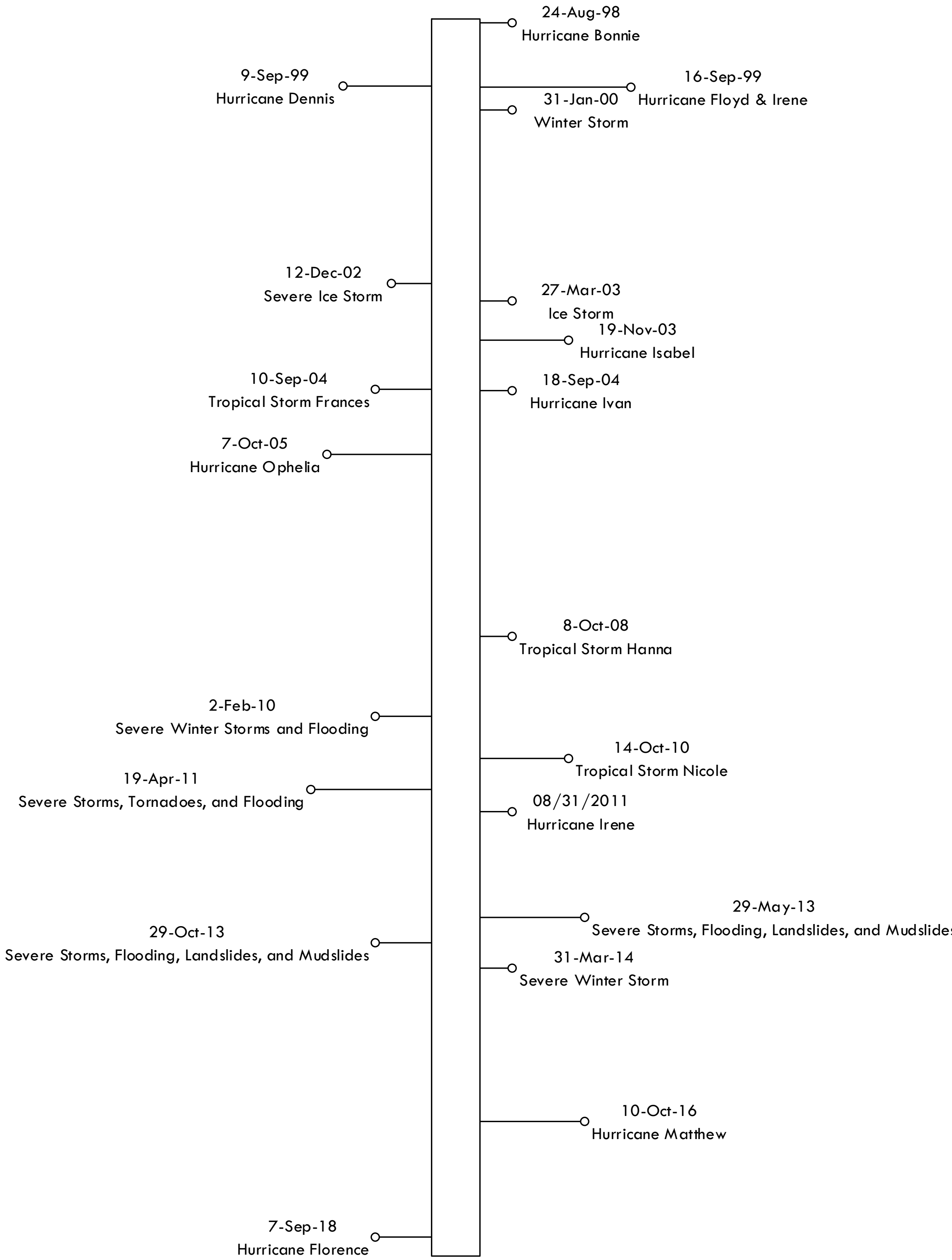
A draft of this report was submitted to the Department of Commerce and the Department of Public Safety for review. Their responses are provided following the appendices.

Program Evaluation Division Contact and Acknowledgments

For more information on this report, please contact the lead evaluator, Brent Lucas, at brent.lucas@ncleg.net.

Staff members who made key contributions to this report include Jacob Ford and Sean Hamel. John W. Turcotte is the director of the Program Evaluation Division.

Appendix A: Timeline of Recent Natural Disasters Affecting North Carolina



Source: Program Evaluation Division based on information from DPS, DEQ, the National Hurricane Center, and National Weather Service.

Appendix B: Description of the Four Phases of Emergency Management

Comprehensive emergency management is an ongoing process that begins with threat mitigation and activities conducted prior to disaster events to ensure entities are ready to respond. As shown in Exhibit 2, there are four phases of comprehensive emergency management. One key element of comprehensive emergency management is the feedback of information gleaned from previous disasters; lessons learned can help improve future planning efforts and, to the extent possible, decrease losses following the next disaster.

- **Mitigation phase.** This phase focuses on efforts to reduce or eliminate the potential consequences and effects of a disaster, such as encouraging the vacating of flood-prone properties.
- **Preparedness phase.** This phase focuses on ensuring entities are as prepared as possible to respond to disasters, such as by developing plans for deploying resources.

Upon the occurrence of a disaster, the disaster response and disaster recovery phases commence. It is important to draw the distinction between disaster response and disaster recovery as the latter is the focus of this evaluation.

- **Response phase.** The response phase includes the immediate response of governments, non-profit organizations, and others to provide for the immediate needs of those affected by the disaster or emergency. Response-phase actions include providing water, meals, and temporary housing to citizens.
- **Recovery phase.** Portions of the recovery phase often occur simultaneously with the response phase, but overall this phase lasts much longer. It is during the recovery phase that those most affected by storms begin the long process of repairing and rebuilding to return conditions to their pre-disaster state, and in some cases to improve upon that pre-disaster state.

Appendix B: (Continued)

The Four Phases of Comprehensive Emergency Management Are Cyclical

	Phase of Comprehensive Emergency Management			
	Mitigation	**Preparedness**	**Response**	**Recovery**
Description	Steps to reduce or eliminate the harmful consequences of disasters, such as • retrofitting buildings and infrastructure • buying out property • establishing state hazard mitigation plans • building tornado-safe rooms • implementing building safety codes	A continuous process of planning, training, and organizing to identify threats, determine vulnerabilities, and muster the resources to deal with disasters when they strike. These may include • contracting before an event • reaching agreements on mutual aid • inventorying state and local resources, • raising public awareness and creating outreach campaigns • implementing readiness exercises • establishing warning systems • drawing up state response and recovery plans	Activities that address the immediate direct effects of a disaster, particularly by limiting loss of life, personal injury, and property damage, such as • search and rescue • emergency food and shelter • medical care • shutting off contaminated water sources • damage assessment	Short- and long-term activities designed to restore communities to normal or better conditions. Following a disaster, this includes • returning telecommunications and utility systems to minimum operating standards • managing debris and adding staff for government assistance activities • reconstructing public infrastructure • providing redevelopment loans and legal assistance • rebuilding communities

Source: Program Evaluation Division based on Smith, D. (2011): Planning for Post-Disaster Recovery: A Review of the United States Disaster Assistance Framework. *Public Entity Risk Institute, Fairfax, VA.*

Appendix C: N.C. General Statute 143-64.41

Article 3D. Procurement of Architectural, Engineering, and Surveying Services.
§ 143-64.31. Declaration of public policy.

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(a1) A resident firm providing architectural, engineering, surveying, construction management at risk services, design-build services, or public-private partnership construction services shall be granted a preference over a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina. For purposes of this section, a resident firm is a firm that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this State.

(b) Recodified as G.S. 143-133.1(a) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(c) Recodified as G.S. 143-133.1(b) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(d) Recodified as G.S. 143-133.1(c) by Session Laws 2014-42, s. 3, effective October 1, 2014, and applicable to contracts awarded on or after that date.

(e) For purposes of this Article, the definition in G.S. 143-128.1B and G.S. 143-128.1C shall apply.

(f) Except as provided in this subsection, no work product or design may be solicited, submitted, or considered as part of the selection process under this Article; and no costs or fees, other than unit price information, may be solicited, submitted, or considered as part of the selection process under this Article. Examples of prior completed work may be solicited, submitted, and considered when determining demonstrated competence and qualification of professional services; and discussion of concepts or approaches to the project, including impact on project schedules, is encouraged. (1987, c. 102, s. 1; 1989, c. 230, s. 2; 2001-496, s. 1; 2006-210, s. 1; 2013-401, s. 1; 2014-42, ss. 3, 4.)

Appendix D: Summary of Approaches for States to Use CDBG-DR Funds to Fulfill the Non-Federal Match

For Hurricane Matthew recovery, the General Assembly appropriated state funds to fulfill non-federal cost matches; by appropriating these funds, the State demonstrated its capacity to meet the need for such matching requirements, thereby disqualifying the State from using federal CDBG-DR funds for matching purposes. As the table below shows, this method poses the least administrative challenge to implement but places the entire financial burden on the State for meeting the non-federal cost share. States that demonstrate they cannot meet this need can take a variety of approaches in using federal CDBG-DR funds for matching purposes.

Match Source	Source of the 25% Match	Match Eligibility	Advantages	Disadvantages
Local Match	Subrecipient (Local Unit of Government)	• Individual Assistance (FEMA-IA) • Public Assistance (FEMA-PA) • Hazard Mitigation Grant Program (HMGP) • U.S. Army Corps of Engineers projects for disaster recovery	• Eliminates the State's financial and administrative burden	• Financial and administrative burden falls on the local unit of government • May limit ability to consider beneficial projects
State Appropriation	State	• Individual Assistance (FEMA-IA) • Public Assistance (FEMA-PA) • Hazard Mitigation Grant Program (HMGP) • U.S. Army Corps of Engineers projects for disaster recovery	• Eliminates financial burden for subrecipients • Low administrative burden to the State	• Financial burden falls on the State • Administrative coordination required between state and local units of government
CDBG-DR Traditional	CDBG-DR (Per Project)	• Public Assistance (FEMA-PA) • Hazard Mitigation Grant Program (HMGP) • U.S. Army Corps of Engineers projects for disaster recovery	• Leverages federal funding • Eliminates financial burden on subrecipients • Eliminates financial burden on the State	• Administrative challenges • Limited eligibility criteria • Additional regulatory requirements
CDBG-DR Global	CDBG-DR (Global Match)	• Hazard Mitigation Grant Program (HMGP)	• Leverages federal funding to meet match requirements through fewer projects • Lower financial burden on state and local units of government	• Additional requirements for the regulator • Additional coordination among stakeholders • Additional administrative effort for the State

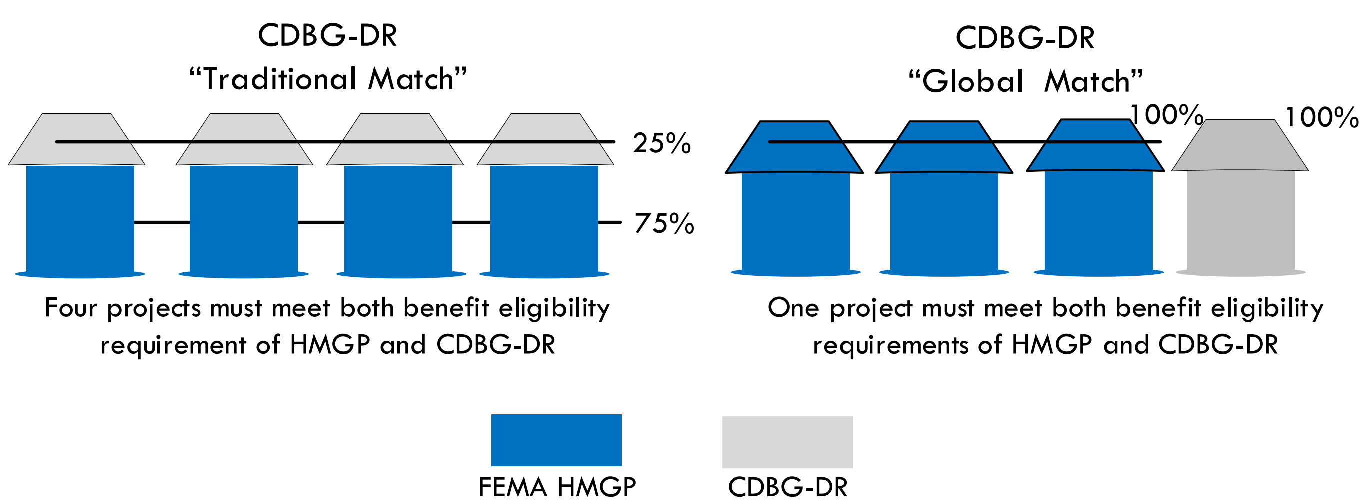
There are two approaches states can follow for using CDBG-DR as the source of the non-federal match—traditional and global. When using either approach, all disaster recovery projects allocated CDBG-DR funds as the source of the non-federal match must meet eligibility requirements for CDBG-DR funding and for the non-match source program. For example, if CDBG-DR funds are being used as the source of the non-federal match for a series of FEMA-PA projects, each project that uses CDBG-DR as the source of the match would need to meet benefit eligibility requirements for both FEMA-PA and CDBG-DR funds. Although using CDBG-DR as the source can add some administrative complexity, this burden is eliminated for HMGP projects that are eligible to use the Global Match approach.

Appendix D: (Continued)

Of the four common approaches states can take to meeting the non-federal cost share, the Traditional and Global Match approaches allow state and local governments to leverage CDBG-DR funds as the non-federal match source for several federal disaster recovery programs, including FEMA-PA, HMGP, and Army Corps of Engineers projects. To maximize federal funds, states and local governments should use a specific match approach based on the federal program for which it seeks to use CDBG-DR funds. The sections below discuss the ways states and local governments can maximize federal funds based on the federal program for which CDBG-DR funds are being used to meet the non-federal match requirement.

- **The Traditional Match approach is most appropriate for non-HMGP projects as each project for which CDBG-DR funds are used must meet CDBG-DR criteria.** Under the Traditional Match, CDBG-DR funds serve as the source of the non-federal match and can be used as the 25% match for each project. Administratively, this match approach can be challenging because each project using CDBG-DR as the source of the non-federal cost share must meet benefit eligibility requirements for CDBG-DR and HMGP, as the table shows.
- **The Global Match approach promotes greater flexibility than the Traditional CDBG-DR Match approach for HMGP projects.** In comparison, the Global Match approach is the preferable source of the non-federal match for HMGP-eligible projects because it capitalizes on a portfolio of projects to meet the FEMA match rather than focusing on individual projects. As the exhibit shows, the state identifies projects eligible for both CDBG-DR and HMGP funds, but only projects where CDBG-DR funds are applied as the match are required to meet benefit eligibility requirements for CDBG-DR and HMGP. Not only does the Global Match relieve state and local governments of major financial obligations, but the structure reduces the regulatory challenges of the Traditional CDBG-DR match approach for the HMGP recovery program. The trade-off for eliminating state and local financial obligations are increased regulatory challenges and administrative work. There is an additional administrative hurdle of shared project benefit eligibility between projects where CDBG-DR is used as the match which adds administrative complexity. However, states like New Jersey, New York, Louisiana, Illinois, and Texas have all managed these challenges in using CDBG-DR as the source of the non-federal match.

Each project allocated CDBG-DR as the source of the match funding must meet benefit eligibility requirements for FEMA HMGP and CDBG-DR



April 26, 2019

Mr. John Turcotte
Director, Program Evaluation Division
NC General Assembly Legislative Services Office
300 North Salisbury Street, Suite 100
Raleigh, NC 27603

Dear Mr. Turcotte:

I want to express my appreciation for the work of you and your team on the report regarding Hurricane Matthew disaster recovery. Disaster recovery is long, hard and complicated work, and your report gives the Department of Public Safety (DPS) and the newly created North Carolina Office of Recovery and Resiliency (NCORR) the opportunity to discuss lessons learned and our plans to rebuild North Carolina smarter and stronger. I thank you for the opportunity to review and respond to the Program Evaluation Division's Report 2019-05 on the Disaster Recovery Acts (DRA) of 2016 and 2017.

DRA 2016/2017
Any true evaluation of DRA 16 and 17 funds must include the successful deployment of these funds, which was not addressed in the report. Of the $359.7 million in state appropriated disaster relief funding for Hurricane Matthew, $157 million (44%) has been spent to date. An additional $100 million (28%) is obligated and $102.7 million (29%) is the remaining balance to close out those recovery programs. It is important to look at the state's expenditure of funds in totality and recognize that many citizens and local projects have been assisted with state funds.

Pace of Spending CDBG-DR
The report points out the relative slowness of expenditure of CDBG-DR funds, but does not provide proper context for this assertion. As the report states, "CDBG-DR funds are intended to be the payer of last resort; eligibility is often based on not qualifying for or not receiving assistance from other federal programs. Thus, distribution of these funds is expected to take somewhat more time than other sources." Despite these statements, the report inaccurately describes the timeframe in which the CDBG-DR funds were received by the State and inappropriately compares North Carolina to South Carolina in expenditures. First, Exhibit 4 states that more than 730 days elapsed from the time of Hurricane Matthew to the expenditure of CDBG-DR funds. This exhibit disregards the information contained later in the report, in Exhibit 6, that clearly shows that the State was not granted authority to receive the funds from HUD until August 15, 2017, when HUD approved the Department of Commerce as the grantee for the funds. During the 311 days in between Hurricane Matthew's landfall and the approval of

grantee status for the State, the State had absolutely no ability to draw upon the CDBG-DR funds. Thus, the 730-day figure is wholly inaccurate.

Secondly, the report compares North Carolina to South Carolina in terms of expenditure of CDBG-DR funds, but the two situations are very different, as evidenced in footnote 13. South Carolina had previously been allocated CDBG-DR funds in 2015, and therefore had already established its grantee status for the funds. As the report states, North Carolina had not administered CDBG-DR funds since 2003 and did not have current grantee status when Hurricane Matthew hit. As noted above, 311 days passed from the date of storm until HUD approved Commerce as a grantee. Further, as the footnote points out, South Carolina administered only one program, where the North Carolina CDBG-DR program "provides recovery and resiliency measures for all LMI (low and moderate income) home types including rehabilitation, reconstruction and new construction of single family homes, which takes considerably longer than replacing Manufactured Housing Units *yet provides greater resiliency for North Carolina citizens.*" It is unfortunate that the most important details of this comparison are buried in footnotes and exhibits.

Lack of CDBG-DR Expertise in NC

As noted in the report, due to the General Assembly's elimination of CDBG housing activities within Commerce between 2009 and 2013, Commerce did not maintain staff with traditional CDBG housing expertise and knowledge. Thus, when Hurricane Matthew hit in October 2016 and DRA 16 established the Department of Public Safety as the implementing agency for CDBG-DR and Commerce as the administering agency, the State simply had no infrastructure and no expertise in either agency to begin the program. We agree that this lack of institutional knowledge and expertise led to delays in program implementation.

Utilization of Local Governments

Despite the challenges, we cannot agree with the assertion that DPS failed to leverage local government CDBG expertise. On the contrary, when the CDBG-DR program was rolled out after Hurricane Matthew, local governments were tasked with handling many aspects of the CDBG-DR recovery program on the assumption that this funding should follow the normal process of annual CDBG allocations. After a disaster, many states follow this initial program design, on the false assumption that CDBG program experience is easily transferred to CDBG-DR program implementation.

In fact, the initial program design for North Carolina's CDBG-DR grant was a sub-recipient managed (i.e. local government managed) program. North Carolina signed sub-recipient agreements (SRAs) with local governments for the implementation of the program, including allocations for housing programs, infrastructure programs, and administration. Due to the complexity of implementing a CDBG-DR program of this scale, the slow program implementation by sub-recipients (local governments), and advice given to the State by HUD, the State has determined that it is in the best interest of effective recovery to design the program to operate as many programs as possible from the State level. This approach is considered a best practice among successful CDBG-DR grant recipient states.

After conversations with local governments with active sub-recipient agreements, several local governments have voluntarily returned aspects of the CDBG-DR program to the State, or cancelled the SRA entirely, citing the difficulty of CDBG-DR implementation. DPS has solid relationships with its county partners and continues to foster relationships with local government entities as it implements the CDBG-DR program.

CDBG vs. CDBG-DR
It is incorrect to state that CDBG and CDBG-DR are equivalent programs. CDBG-DR is only appropriated by Congress following Major Disaster declarations in which Stafford Act programs have distributed federal resources in the impacted regions. All CDBG-DR grantees must conduct a Duplication of Benefits (DOB) analysis on each individual project (at the level of analyzing individual homeowner receipt of federal funds) before calculating a CDBG-DR award. This cumbersome task of conducting DOB is not required and not practiced in traditional CDBG programs. Additionally, the size and scale of a post-disaster CDBG-DR program requires tiered environmental reviews and a common system of record maintained at the State level. These significant measures are not required by regular CDBG programs.

Moreover, CDBG-DR is not a program that is codified in federal statute. Instead, the program experiences regular programmatic changes through Federal Register notices. Unlike CDBG, its guiding regulations change frequently, exposing those familiar only with regular CDBG programs to the risk of non-compliance with more than 80 cross-cutting federal regulations. There are more than 50 different HUD guidance documents governing CDBG-DR. The complex and slow nature of issuing CDBG-DR funding has been the subject of a recent GAO report. (GAO-19-232).

Entitlement Communities
Finally, PED states that "many" local governments across North Carolina are designated as entitlement communities and administer CDBG activities within their jurisdictions, which is not accurate in the context of this report. Within the HUD-defined Most Impacted and Distressed Counties for Hurricane Matthew, within which 80% of the funds must be expended, only Cumberland County is an entitlement county. This is stated, again in a footnote, on page 21 of the report, but only in footnote form.

Use of CDBG-DR as Match for Federal Funds
DPS agrees with the report that the General Assembly obviated the ability to use CDBG-DR as match when it appropriated the match funding. In an effort to speed relief to citizens, the General Assembly precluded CDBG-DR from being used for this purpose. It is important to note for the future, however, that if the State were able to use CDBG-DR funds for match, it would substantially reduce the funding available for its housing programs for vulnerable citizens, including the homeowner repair and reconstruction programs, the buyout program, and the infrastructure program for local governments. Reducing aid to the State's hurricane victims and communities would be unacceptable.

Specific responses to each recommendation are provided below.

Recommendation 1: The General Assembly should direct DPS to revise its procurement methods to ensure future CDBG-DR contracts are HUD-compliant, report to the General Assembly on these efforts, and to report annually the amount of non-reimbursed state funds used to administer CDBG-DR...the General Assembly should direct DPS to modify its procurement policies and procedures for disaster recovery program management purposes to require that cost always be a selection factor to meet any applicable HUD requirements.

This recommendation is unnecessary as the newly created NCORR, per State and Federal procurement regulations, will *always* use cost as a factor in the evaluation of professional services for CDBG-DR management. As the entity responsible for CDBG-DR funding, all contracts NCORR enters into that are intended to be reimbursed through Federal funds, will follow Federal and State procurement processes that require cost be used as a factor in evaluation. This procedure is defined in the NCORR certification to HUD and is currently being implemented, as shown through the Requests for Proposals that NCORR has advertised since its inception.

Recommendation 2: The General Assembly should require the North Carolina Office of Resiliency and Recovery (sic) (NCORR) to notify various entities of the potential for using CDBG-DR funds to meet matching requirements immediately following a presidential disaster declaration.

NCORR has no objection to this recommendation, but will note in any notification that the use of CDBG-DR for match purposes directly reduces aid to North Carolina citizens.

Recommendation 3: The General Assembly should direct NCORR to take action to ensure its effectiveness, preparedness, and ability to limit unnecessary state spending on current and future natural disasters, and consider establishing core NCORR permanent positions.

Based upon lessons learned, NCORR is already taking the recommended actions to limit unnecessary state spending. For example, the Requests for Proposal the agency has advertised to date are written to be reimbursable by Federal funds. The Department agrees establishing permanent positions for NCORR will increase its ability to attract and retain highly talented staff and will help ensure the State does not lose expertise after the time-limited positions expire.

Recommendation 4: The General Assembly should revise statutory reporting requirements and require NCORR to report on the performance of federal and state disaster recovery funds.

Pursuant to Section 5.8 of Session Law 2018-138, NCORR and state agencies are already required to provide extensive financial and program reporting. This section also requires regular periodic financial and performance audits to be conducted by the Office of State Auditor, a professional and independent office that can add value to the recovery process. NCORR is responsible for quarterly reporting on expenditures for recovery programs and can report extensively on the performance outcomes of the CDBG-DR funding from its system of record, which holds information about each project undertaken with CDBG-DR funds for applicants to the program. Each project funded with CDBG-DR funds can be tracked to a particular applicant and address, and the outcome-oriented performance metrics are clear in the system of record. For example, NCORR can report on the number of homes repaired and reconstructed and the specific dollar figures of reimbursed funds for each applicant who has gone through the program.

If NCORR is required to do performance reporting on all recovery funds, the General Assembly would have to commit significant additional financial and professional resources and additional requirements on all other fund recipients to report to NCORR. As a further note, continual changes in reporting requirements can actually cause disruption, report confusion and delays in the provision of meaningful and consistent trend information to critical stakeholders, including the General Assembly and public at large.

Thank you for the opportunity to review this report, and we look forward to working productively together to rebuild North Carolina stronger and smarter. As the State continues to recover from recent storms and plans for future storms, DPS looks forward to the continuous opportunity to coordinate with the General Assembly to make the best use of available funds and the best outcome for hurricane victims.

Sincerely,

Erik A. Hooks
Secretary

cc: Chief Operating Officer Laura Hogshead, NCORR
Director Michael A. Sprayberry, Emergency Management

ROY COOPER
Governor

ANTHONY M. COPELAND
Secretary

April 25, 2019

Mr. John Turcotte
Director, Program Evaluation Division
NC General Assembly Legislative Services Office
300 North Salisbury Street, Suite 100
Raleigh, NC 27603

Dear John,

On behalf of the North Carolina Department of Commerce, I would like to thank you and your team for your evaluation of the Disaster Recovery Acts of 2016 and 2017 and for your staff's work with the Department to ensure our recommended technical changes to the report draft were incorporated into the final report.

Hurricane Matthew was an unprecedented disaster for the State of North Carolina, and especially the 50 impacted counties in the Eastern part of the state. As outlined in the report, the Department of Commerce received $10,250,000 in DRA 16 and $0 in DRA 17. Of the funding the Department of Commerce received in DRA 16, the $250,000 appropriation to assess the need for business assistance funds was completed through a sample survey of impacted businesses. The survey was completed for $5,229 and the unspent funds were returned to the State. The $10 million appropriated to the Department of Commerce for infrastructure repair and replacement are fully encumbered to grantees. Payments are issued as infrastructure projects progress and local governments request reimbursement for funds expended.

These funds were part of more than $300 million in state dollars that were awarded to nine different Departments or entities for various disaster recovery efforts that were quickly identified by the General Assembly as key areas of need. In addition, the Federal Emergency Management Agency has awarded more than $590 million to the state through Individual Assistance, Public Assistance and Hazard Mitigation programs. Both of these amounts represent significant support to help the state with its response and recovery efforts.

The majority of the PED Evaluation is concentrated on the Community Development Block Grant – Disaster Recovery (CDBG-DR) funds. It is important to emphasize that CDBG-DR funds are to be used when there are significant unmet needs for long-term recovery, including restoring infrastructure, housing and economic revitalization. In addition, CDBG-DR funds cannot duplicate funding available from any other source of assistance.

Several detailed steps must be completed before CDBG-DR funds can be utilized including the creation of an Action Plan based on notices from the Federal Register, Action Plan approval by U.S. Department of Housing and Urban Development (HUD), applicable environmental reviews and the execution of a grant agreement with HUD.

As the report outlines, there were two significant impacts to the state's ability to move through these complicated steps to access the CDBG-DR funding. First, the Department of Commerce formerly had a role in administering Community Development Block Grant (CDBG) housing activities, but in 2013, the North Carolina General Assembly eliminated all CDBG housing programs and redirected funds to infrastructure programs administered by the Department of Environmental Quality and economic development projects. Without a housing program to administer, the Department of Commerce shrank its CDBG staff through retirements, reductions in force and staff transfers to other programs and was unable to maintain a staff with knowledge and expertise in traditional CDBG housing administration.

Second, DRA 16 required the transfer of all CDBG-DR funds from the Department of Commerce to the Department Public Safety. To comply with this change and the federal requirements of the program, the Department of Commence remained the agency charged with administering a program implement by the Department of Public Safety – creating a dual management structure.

Given the complexities of CDBG-DR, we agree that the General Assembly's creation of the North Carolina Office of Recovery and Resiliency (NCORR) provides a structure that was not previously in place to support long-term recovery efforts for the inevitable future disasters. Ensuring that NCORR maintains the expertise and institutional knowledge to plan, implement and administer complex federal programs like CDBG-DR could be one of the most important lessons learned from the State's recent disasters. The Department of Commerce strongly supports the PED's recommendation that NCORR have the ability to maintain the expertise it has gained so it can be quickly accessed for the State's long-term recovery from future disasters.

Thank you for the opportunity to respond to your evaluation.

Sincerely,

Anthony M. Copeland