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## Comment Submitted by American Bar Association Young Lawyer's Division Disaster Legal Services Program

Posted by the Federal Emergency Management Agency on Mar 28, 2022

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The American Bar Association Disaster Legal Services (DLS) program performs the ongoing function of providing free legal assistance to survivors of natural or other disasters in cooperation with the Federal Emergency Management Agency (FEMA) and is managed by a group of volunteer attorneys across the country. DLS is dedicated to providing disaster survivors access to justice, in coordination with state and local bar associations, to assist with civil legal matters in the aftermath of an event.

Beginning in 1973, FEMA designated the DLS program to serve as the exclusive coordinator of free legal services to disaster survivors. Through this program, thousands of young lawyers have provided free legal advice and representation to hundreds of thousands of disaster survivors around the nation. Although DLS is the touchstone public service program of the ABA YLD, many other organizations, law students, non-YLD attorneys, and other legal professionals contribute to the success of this program.

Legal help may include assisting survivors with FEMA and SBA financial benefits, home repair contracts and property insurance claims, re-doing wills and other important legal documents destroyed in the disaster, price gouging, scams, or identity theft, landlord or tenant problems, or threats of foreclosure, and accessibility barriers to federal, state, and local disaster programs for underserved communities.

Since 2007, DLS has responded to over 250 disasters in 45 states and 5 U.S. territories for hurricanes, floods, tornadoes, fires, mudslides, lava flow, earthquakes, winter storms, cyclones, and even acts of terror. Disasters and emergencies come in all shapes and sizes, however the substantive legal issues that attorneys may help with are consistent across regions and often require helping community members regain a sense of stability after a disruptive event. With more and more disasters impacting communities across the U.S. and other unprecedented events like the COVID-19 pandemic affecting individuals and families, the DLS program continues to explore ways to innovate and reach more people.

FEMA's nondiscriminatory obligation under the Stafford Act, Section 308, "[The] distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status." (42 U.S.C. 5151). In attainment of these equity standards, the executive branch announced in Executive Order 13985, which proffers an effective Disaster Recovery Framework. However, effective recovery programs exist only if they are actual for each disaster survivor. The recent Government Accountability Office (GAO) report found that the lack of data collection by FEMA prevents the agency from achieving these goals. FEMA's own National Advisory Council recognized the Agency does not adequately target assistance to people who need it most after a disaster.

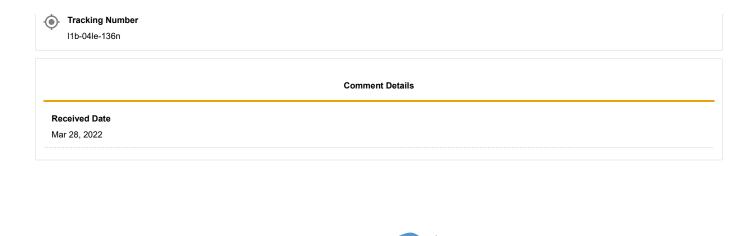
To ensure FEMA is fulfilling nondiscriminatory obligations, an opportunity must be afforded to applicants to disclose specific demographic information. Data sets (for both awarded and denied applicants) must be inclusive of all underserved populations. In addition to race, ethnicity, and gender, FEMA should ask for age, religion and clarify the disability and access functional needs delineation. Revising policies and procedures in service delivery to achieve equity, without an accurate representation, is premature and is not an inclusive, whole community approach which denies an effective recovery for all disaster survivors. However, it is important to ensure that the additional data collected does not create an undue burden on already-overwhelmed disaster survivors.

Publicly available information from FEMA could assist in ensuring access to justice in a disaster. DLS works closely with FEMA representatives when disaster legal services become operational. This additional data would be instrumental in assisting our program and its partners in their efforts to identify and reach underserved populations. With it, our program could build more awareness about DLS through targeted outreach and coordination with community-based organizations and nonprofits also involved in recovery efforts.

FEMA has an opportunity to improve the operational outcomes for vulnerable communities by implementing inclusive processes. Inclusive demographics, as a metric, is a quantitative measure that can provide certainty of FEMA's legal obligations to ensure that disaster assistance is distributed in an equitable manner without discrimination. Without comprehensive data, an evaluation of FEMA's programs, in part, maintains subjective and fails to acknowledge the disparate impact on underserved and underrepresented communities.

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