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THE NATIONAL FLOOD INSURANCE PROGRAM: OVERSIGHT OF SUPERSTORM SANDY CLAIMS

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND INSURANCE

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

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THE NATIONAL FLOOD INSURANCE PROGRAM: OVERSIGHT OF SUPERSTORM SANDY CLAIMS

Tuesday, June 2, 2015

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND INSURANCE,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:12 p.m., in room 2128, Rayburn House Office Building, Hon. Blaine Luetkemeyer [chairman of the subcommittee] presiding.

Members present: Representatives Luetkemeyer, Garrett, Pearce, Posey, Hurt, Stivers, Ross, Barr, Rothfus, Williams; Cleaver, Velazquez, Capuano, Green, and Beatty.

Ex officio present: Representatives Hensarling and Waters.

Also present: Representative Meeks.

Chairman LUETKEMEYER. The Subcommittee on Housing and Insurance will come to order. Without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

Today's hearing is entitled, "The National Flood Insurance Program: Oversight of Superstorm Sandy Claims." Before we begin, I would like to thank the witness, Mr. Kieserman, for appearing today. And I look forward to his testimony.

I will now recognize myself for 2 minutes to give an opening statement.

In October 2012, Superstorm Sandy made landfall, damaging or destroying 650,000 residences and resulting in $65 billion in losses. Years later, the media reported initial causes of fraudulent engineering reports that facilitated lower flood insurance claims. FEMA acted, but only after public prodding, and today is in the midst of a significant legal battle, attempting to settle as many cases as possible. Still, no one has been able to tell Congress or the public why these engineering firms operated in the fraudulent manner in which they are believed to have done.

One question we must examine is whether or not perverse incentives exist within the National Flood Insurance Program (NFIP). Sandy wasn't the first test of the NFIP, and unfortunately won't be the last. Fraudulent reports and alleged underpayment of claims that came in the wake of Sandy highlight a significant underlying issue. Reform of the NFIP is needed and is needed now. Today, we hear from Brad Kieserman, FEMA's Deputy Associate Administrator for Insurance. He is the individual charged with overseeing

the Sandy settlements claims process. It is my hope he will be able to be forthcoming in his testimony and that he will provide this subcommittee with a better understanding of the events that occurred following Sandy. Time and again, we have seen Americans suffer because of government's failures, particularly when it comes to the National Flood Insurance Program.

At this moment, what we know is that there was negligence and alleged fraud on the part of FEMA and certain engineering firms and that policyholders were mistreated. Today, we aim to garner more information on this situation, examine whether or not such significant issues presented themselves in the wake of similar disasters, and begin to discuss ways to fix a broken system in an effort to ensure it does more to benefit not only policyholders, but also taxpayers who foot much of the bill.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez, for 2 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. I want to thank you and the ranking member for convening this important hearing. Superstorm Sandy was one of the worst natural disasters in U.S. history and hit homeowners especially hard. From completely destroying homes to thousands of flooded basements, this storm wrecked havoc in my district, causing millions of dollars in damage. In the face of such devastation, my constituents expected Write Your Own insurance companies to honestly and fairly assess damages and pay claims. Unfortunately, it appears that did not happen. Mounting evidence suggests that peer-reviewed engineering reports were altered to specifically deny claims, citing that the damage was due to prior longstanding problems, even though the original report stated that Sandy was the cause.

In other more egregious cases, reports were falsified to indicate no structural damage occurred at all, when, in fact, it did exist. These allegations are at the heart of today's hearing. Falsified engineering reports, underpayment of claims, and lax oversight by FEMA paint a troubling picture that led to significant harm for many victims who rightfully thought they were covered. We owe it to the victims to thoroughly investigate what FEMA knew, when they knew it, and what is being done to fix the problem. But, most importantly, to ensure it never happens again.

Today's hearing will further that goal. And with that, I thank the chairman and the ranking member. And I yield back.

Chairman LUETKEMEYER. I thank the gentlelady.

With that, we go to the gentleman from New Jersey, Mr. Garrett, for 2 minutes.

Mr. GARRETT. Thank you, Mr. Chairman. I would like to thank you for conducting this important hearing, and allowing us the opportunity to oversee the process of making those affected by Superstorm Sandy whole. Now, I was able to personally help some of those who suffered from the storm, personally able to help them to dig out of the rubble, if you will. So I saw the destruction and I saw the devastation firsthand of the storm. And I also saw the despair of the victims. But, at the same time, I also saw the strength and the determination of my constituents who worked hard to rebuild their homes and to rebuild their lives.

But after enduring the storm and the clean-up and all that went with it, the people of New Jersey then had to face yet another challenge: some doctored flood insurance claims that threatened their ability to rebuild. This, quite frankly, is unacceptable. Frankly, it is actually maddening. And I hope that we can work together to ensure that victims are not cheated and taken advantage of. And of course, importantly, we need to also make sure that the taxpayer is also taken into consideration for overpayments for Sandy and of waste and fraud.

And with that, I again thank the chairman for the hearing. I look forward to a discussion of how we can best serve those who are continuing to rebuild. I yield back.

Chairman LUETKEMEYER. I thank the gentleman.

I now recognize the ranking member of the subcommittee, the gentleman from Missouri, Mr. Cleaver, for 2 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. I would like to begin by thanking the Chair for the hearing. As many in this room know, Superstorm Sandy, which hit the United States in October of 2012, is estimated to have been the second costliest hurricane in U.S. history. It damaged 650,000 homes and resulted in $65 billion in damages. Of the 144,000 insurance claims that have been filed, 2,800 were appealed. And because I have a boring life, last night I watched the 60 Minutes episode on the investigation of charges that many of the insurance claims were underpaid or doctored by engineering firms.

A number of news stories have further echoed the same charge. In light of these grave claims, it is paramount that this subcommittee hold a hearing to determine the severity of these allegations, to assess FEMA's role or lack thereof in overseeing the Write Your Own flood policy, and to discuss how FEMA will reassess these claims and restructure their policies in light of these allegations.

My congressional district was not impacted by Superstorm Sandy. Mother Nature, however, does not discriminate, not by city, by district, or by red or blue. As members of this committee, it is our responsibility to ensure that when disaster strikes, our constituents have the resources to rebuild in ways that allow them to move forward with their lives. I look forward to hearing from you, Mr. Director. And hopefully, many of the issues we have can be resolved. Thank you.

Chairman LUETKEMEYER. I thank the gentleman.

With that, we have the gentleman from Texas, Mr. Green, for 1 minute.

Mr. GREEN. Thank you, Mr. Chairman. I especially thank you and the ranking member for this hearing. Because, as you know, on Memorial Day, in Texas, we had an inundation. And, literally, we have had trillions, trillions of gallons of water in Texas. And my congressional district in Houston, Texas, has been hit. We have one apartment complex, the Rockport Apartments, where hundreds of people have had to be relocated. Some of the units are uninhabitable. And we also have had an area in my district with homes that have been flooded to the extent that people are losing everything that they have on the first floor. Whatever they had on the first floor, I think, is lost. I have actually gone to them. I have been in

their homes. I have seen it with my own eyes. And my hope is that we will be able to bring some resolution to the issue of concern today. Because we don't want to see other persons visited with these same concerns, especially when they are suffering and are expecting a helping hand, a hand up, not some person who is going to defraud them.

So I thank you, Mr. Chairman. And I thank the witness for appearing today as well.

Chairman LUETKEMEYER. I thank the gentleman.

We will now hear from our witness. Today, we welcome the testimony of Mr. Brad Kieserman, Deputy Associate Administrator for Federal Insurance at the Federal Emergency Management Agency. Mr. Kieserman, you will be recognized for 5 minutes to give your oral statement, and without objection, your written statement will be made a part of the record. And with that, you are recognized to proceed.

STATEMENT OF BRAD KIESERMAN, DEPUTY ASSOCIATE ADMINISTRATOR FOR FEDERAL INSURANCE, FEDERAL INSURANCE AND MITIGATION ADMINISTRATION, FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. KIESERMAN. Thank you, Mr. Chairman. Chairman Luetkemeyer, Ranking Member Cleaver, and members of the subcommittee, as you know, I am Brad Kieserman, the Deputy Associate Administrator for Federal Insurance in the Department of Homeland Security's Federal Emergency Management Agency. I am grateful for the opportunity to be here today. But I will be honest with you, I am regretful about the circumstances.

Congressman Green, your comments resonated with me. I will tell you why, in particular, I have been very focused on Texas over the last week or so, along with my colleague, Deputy Associate Administrator Wright, who is here behind me. And there is a personal reason why. In 1972, my grandparents, Ben and Bertha Levy, lived in Wilkes-Barre, Pennsylvania, when that community was devastated by Hurricane Agnes and the flooding associated with it. While the flood waters did not kill my grandparents, the experience afterwards did. I was 10 years old. I have had a lot of opportunity, unfortunately, to think about that and remember it since Sandy, and over the last 114 days since I have been in this job.

Because about 120 days ago, the Administrator of FEMA, Craig Fugate, came to me and said, "We have a problem. I need you to go solve it for me." Many people ask me what happened in Sandy. I think what happened is fairly simple to describe, but painful. There are some people, survivors of Sandy, who paid premiums, some for many years, for flood insurance. And they did not get what they were entitled to. They did not get what they deserved. Their government let them down. Their insurance company let them down. And people came to their homes and some of those people did wrong by those survivors.

There is a lot of talk about why it happened. People want to talk about the incentive structure that is in place. I am not sure I am going to be able to give you very fulfilling answers on that today. But I will tell you why I think this happened. Why I think this

happened is because the National Flood Insurance Program needs to be reformed. It has lost contact, it has lost connection with its survivors, with its customers, with its policyholders, with its premium payers. And I will tell you this, floods are the number one disaster in this country. You don't have to look any further than Texas, sir, to see that. And they continue to be the number one natural disaster in this country. And as long as that is the case, Americans will need flood insurance to help manage their risk. And they deserve a program they can count on.

And over the past 32 years, since we put into place the public-private partnership that is the Write Your Own Program, in which commercial insurance companies deliver about 83 percent of the services in the National Flood Insurance Program, we have allowed that program to grow to be a highly distributed network. It really lacks adequate governance. And we have lost the capability and the capacity to detect and monitor problems in that program. And here is the proof of that. Two years after Sandy, a Federal court judge finally set down in writing that he had seen reprehensible gamesmanship on the part of some people delivering the program. And he expressed concern that that may represent systemic wrongdoing in the program. It shouldn't have taken 2 years to recognize that. And it should never take 2 years to recognize that again.

There is a great book about organizational change called, "Your Iceberg is Melting." It is written by Dr. John Cotter. The National Flood Insurance Program iceberg is melting. And what we saw in Sandy was the tip of it. The numbers don't tell the whole story, but let me talk about the numbers for just a moment. We had 144,000 claims for insurance filed in Sandy. We paid out $8 billion. Of those, about 3 or 4 percent of the people filed appeals to FEMA disagreeing with what their insurance company gave them, 3 percent. Another 1½ percent ultimately sued their insurance company or FEMA.

And so you can say well, those numbers indicate that the problem is not that big. There is not really a serious issue. But those numbers don't tell the whole story. Those numbers are just the tip of the iceberg that is melting. And those numbers represent individual people like my grandparents, the Levys, and like some of our litigants, the Morellos or the Rameys, and the others that, Congressman, you saw on 60 Minutes. And for those people, this inability to detect their problem and react to it in a timely way devastated their lives. We cannot allow that to happen again. And so, we are settling claims. We are reviewing claims. And we are going to reform this program.

I should inform the committee, in my final seconds here, before I take your questions, that I have tendered my resignation. I will be leaving FEMA on the 12th of June. I have accepted a position with the American Red Cross to be the vice president for operations and logistics. It was, literally, an opportunity I couldn't afford to decline. I care deeply about the work that the task force is doing. The Administrator, the Secretary, and the Deputy Administrator of FEMA are deeply committed to this. Mr. Wright, who is behind me, will take the helm of the Federal Insurance and Mitigation Administration. And he will drive forward to lead these re-

forms and to lead this change. I look forward to taking the committee's questions today. And, again, I thank you for the time.

[The prepared statement of Mr. Kieserman can be found on page 41 of the appendix.]

Chairman LUETKEMEYER. Thank you, Mr. Kieserman. I appreciate your testimony today.

And with that, I will begin the questioning by recognizing myself for 5 minutes.

You said that the percentage of Sandy claims that remain, I guess that were in litigation, people who weren't happy, was about 1½ percent?

Mr. KIESERMAN. That is correct, Congressman.

Chairman LUETKEMEYER. What percent of those have you resolved?

Mr. KIESERMAN. We currently have—we began with 2,200 claims in litigation in the fall of 2014. We are down to about 900 claims in New York and about 1,100 claims in New Jersey. Of those, through the settlement process that we began about 110 days ago, we have tentatively settled 60 percent of the cases in New York and 40 percent of the cases in New Jersey. My goal and expectation is that FEMA will be able to offer every litigant in New York and New Jersey, who was in litigation as of February when we began this process, with a fair and reasonable settlement by the end of August of this year. And that those who wish to litigate after that will certainly have the opportunity to do so. But our goal is to offer every litigant a fair and reasonable settlement. And we are well on our way to doing that.

Chairman LUETKEMEYER. With regard to the settlements, because some of the fraud allegations and realization of it came to light after some of the folks probably had their claims settled, do they have the ability to go back and get further restitution for their claim? Or do they have to present a situation where they believe they were defrauded and then show that they do have just cause to be considered for some further payment? How is it going to work, I guess is the question I need to ask.

Mr. KIESERMAN. It is really on a case-by-case basis. And it depends on the release they executed and where their settlement was at the time that this process began. There were about 400 or so cases that had been mediated with plaintiffs and defense attorneys and a mediator and folks agreed to the settlement of claims prior to our initiation of the process. If they signed a release of all claims, then they are complete with the process. A number of those cases had not been finalized at the time our process began. And so, we are moving forward to treat them within the scope of the process.

Chairman LUETKEMEYER. You made the comment that it looks like, quite frankly, rats off a sinking ship here with as many people leaving FEMA as they are and the Flood Program here. We are concerned that with this leadership leaving, maybe the bad apples are leaving, but maybe the folks who just don't want to deal with it are taking leave and leaving the ship without some folks to man the rudder here.

And I am kind of concerned about the direction of the program. What do you see? You said the program lacks governance. Can you

explain that, and how that is going to be impacted by all the folks who are leaving, including yourself?

Mr. KIESERMAN. I guess I would begin by saying that my departure is motivated by nothing other than the fact that I have one son in out-of-State tuition at the University of Michigan and another son who dropped out of college and dropped back in. So I am putting two boys through school at the same time. I have been in Federal service for nearly 29 years. And I need to look after my family. I am not leaving for any other reason. I am very dedicated to Secretary Johnson, Administrator Fugate, and Deputy Administrator Nimmich. And I am very committed to this program. I am going to the Red Cross so I can keep helping people. Mr. Wright, who is behind me, is an outstanding senior executive.

Chairman LUETKEMEYER. Okay. But my question was, you made the statement that the program lacks governance, we are losing some people. You said it needs reform. So tell us what your suggestions are going to be or would be for reforming it and getting that governance that you testified, yourself, that it needs.

Mr. KIESERMAN. I think we need to begin from the premise that governance needs to focus on customer service and governance needs to put the survivor first. So we need to figure out—first of all, the structure of the Write Your Own Program and the structure of how FEMA administers its policies on the direct side, frankly, is an anachronism to me. So I think we are going to have to look at that from a forensic accounting perspective and understand the various layers that have accrued during the years.

For example, there are 82 Write Your Own companies plus FEMA. Between FEMA and one of those other Write Your Own companies, we have about 35 to 40 percent of all of the policies in force in the United States, 5.3 million total policies. Two entities have 35 to 40 percent of those. And then, 81 entities have the balance of the 60, 65 percent. That business model intuitively doesn't make sense. Why can 2 handle 20 percent or 40 percent and then you have 81 to do the rest? That is a business model that was allowed to grow over the years. And as that business model has grown, what has happened is that many of the Write Your Own companies and FEMA have contracted out for these services. Because I have to tell you, this is a contract program. There is no one out there wearing a FEMA shirt or a U.S. Government employee shirt who is adjusting a claim. There is no one out there providing engineering services who is a Government employee. All of that is contracted for.

So this is fundamentally going to be a contractual relationship if you want to have the capacity and capability and professionals in the field. So the question becomes, how do you govern that network of contract professionals in a way that is survivor-centric? Because flood insurance is another Emergency Management Program that has to focus on the survivor.

Chairman LUETKEMEYER. I am going to have to interrupt you. My time is up. If you see the little red button on there, you probably need to start winding up your comments because, otherwise, I have the gavel. With that, let me turn to the ranking member of the subcommittee, Mr. Cleaver from Missouri, for his 5 minutes.

Mr. CLEAVER. Thank you, Mr. Chairman. And Mr. Kieserman, thank you for your service with FEMA. I am sure it hasn't been all roses. But thank you nevertheless.

I was born and raised in Texas, following up on what Mr. Green said earlier. And having gone to high school in Wichita Falls, it is hard to imagine that there was mandatory evacuation. My father lived in an area that didn't have to be evacuated during this flooding, but all around him did. I am thrilled over the fact that the flooding didn't hit him because he didn't have any flood insurance. And probably most of the people in Wichita Falls, not one of the great places of flooding, would have insurance.

Mark Hanna of the Insurance Council in Texas has said that he believes less than half of the homeowners, half of them, have flood insurance. So why is it that you think most people in this area lack flood insurance, even though this is not a place that is going to be hit often? But do you have any idea why?

Mr. KIESERMAN. Flood insurance, the purchase of flood insurance, Congressman, is only mandatory in the special flood hazard area, an area that is mapped for a particular hazard. Outside of that, it is not mandatory. However, it is interesting that nearly 25 percent of the claims we pay come from people who are outside that mandatory purchase area. So why don't people buy flood insurance? I suspect it is for the same reason that people don't wear seat belts and take other risks in life. They look at the cost-benefit analysis, probably not unlike my grandparents in 1972, and they assess what they believe their risk of flood is and whether they want to pay out the premium every month. And so, I think that is one of the reasons that people don't buy flood insurance.

Mr. CLEAVER. But even if they do, there is something wrong with the way insurance companies process claims. I was on this committee when Hurricane Katrina hit. And a number of us, including, I think, Mr. Green went and held hearings in New Orleans and in Mississippi. At Senator Trent Lott's house, I stood on the stoop of his house. That was the only thing remaining. It was the same thing at Congressman Gene Green's house; the only thing remaining was the stoop. Nothing else was there. And I think many Members of Congress were completely outraged that these two individuals were denied the insurance company protection from this flood because, all of a sudden, the insurance company, that was one of the biggest in the country, said well, I'm sorry, sir, that we can't pay this claim. You have flood insurance. And your house was not washed away, it was blown away. So should we have blow-away insurance? Something is not right. I am not accusing anybody of anything. I am accusing the not-right scenario that is being played out again and again and again after disasters. What do you have to say to that?

Mr. KIESERMAN. Congressman, there is a line-drawing exercise that I have observed as you have. In Katrina, it was wind versus water. In Sandy, it was earth movement versus flood damage. I have to tell you, I don't think we are particularly good at drawing those lines. And I have seen many cases, in just working the Sandy cases alone, where one professionally licensed engineer will come in and say that the damage was caused by flood and another will come in and say it was caused by earth movement or, as Congress-

woman Velazquez said, by preexisting damage. My experience with this is that any time we try to draw those lines, we don't always get it right, and we end up with very frustrated customers.

And the other thing I would share with you is that many people don't understand the insurance coverage they bought. We need to do a better job helping them understand the product. Because the flood insurance product is a subsidized product and it doesn't cover everything. It has a lot of—

Mr. CLEAVER. What can we do with insurance companies to hold them more accountable for all of these problems that exist after major tragedies?

Mr. KIESERMAN. I think insurance companies have to understand and acknowledge the role that they played in Sandy and where things went wrong there. I think they can be part of the solution as well. And I think, to the point I made earlier about better governance in the network, how do we hold those companies, adjusters, agents, bankers, and others who communicate with policyholders more accountable for helping them understand what they are buying and what their risk is. We all have to do a better job at risk communication. And I think there are a number of interventions we can take there.

Mr. CLEAVER. Thank you.

Chairman LUETKEMEYER. I thank the gentleman. With that, we go to the gentleman from New Jersey, Mr. Garrett, for 5 minutes.

Mr. GARRETT. Thank you. Besides the insurance companies, I have heard reports—I will just throw it out there, whether it is true or not—that there are engineering firms, as well, that are accused of wrongdoing. If engineering firms have been found to act improperly, if they doctored reports or did anything else like that, then they obviously not only have victimized the government, but it is fair to say that they have victimized the Sandy victims as well, wouldn't you agree?

Mr. KIESERMAN. Yes, Congressman.

Mr. GARRETT. Right. What is the status, briefly, of those cases right now? And do you know if there is a history with those particular firms that you are going to speak of, of this sort of thing?

Mr. KIESERMAN. Congressman, I would begin by saying that FEMA is neither a law enforcement agency nor a regulatory agency. And I think it is imperative to understand the role that we play here. We deliver a flood insurance program. And some of the participants in that program have engaged, at a minimum, in highly irregular practices. I will leave it to the courts and the criminal investigators to determine whether they violated the law. The New York State Attorney General's Office and the New Jersey Attorney General's Office are investigating, very aggressively I might add, at least two of the engineering firms.

Mr. GARRETT. And is there a history with these firms in the system, so to speak?

Mr. KIESERMAN. There are those who say that there is prior misconduct. And, again, I think that it is up to those who say that to prove it. But what I can say is that the president of at least one of those firms was disbarred from the practice of law for allegedly being involved in the commission of fraud. That firm and that individual should never have been allowed to participate—

Mr. GARRETT. So he is responsible for his own conduct. Who is responsible here in the government for making sure that people who have been disbarred or who have a history of wrongdoing not be allowed to be in this system that we have?

Mr. KIESERMAN. Today, Congressman, I am responsible for that in the National Flood Insurance Program. It is for that reason that we have withdrawn the authority of insurance companies to make any allocation or—

Mr. GARRETT. Should that have been done by someone, you or otherwise, before Sandy occurred, making sure that if there is a list of bad actors, that these bad actors should not be allowed to be involved?

Mr. KIESERMAN. I think, first, you have to detect it before you can deal with it—to my earlier point about the need to build in better governance and the ability to detect and monitor this problem.

Mr. GARRETT. That is what I am asking. In other words, did these folks that we see now are bad guys, have a history of being bad guys that we should have known beforehand?

Mr. KIESERMAN. I think we should have had mechanisms in place to know that there were problems, to know, first of all, that the companies were not necessarily run by reputable people. And, second of all, to identify the problems long before a Federal judge had to tell us about it. I think both of those things should have happened and need to be done.

Mr. GARRETT. So when the judge—I didn't read the judge's opinion, I am just going by your quotes here—said that there was systemic wrongdoing and reprehensible conduct, I assume, I am guessing here that the systemic wrongdoing involves not only these bad guys, the bad engineers and the claims adjusters or anybody else, but it sounds like there is a systemic problem with the Flood Insurance Program, as well as this one point, that we didn't look at for the last several decades to see who the bad guys were. So he is saying that there is a systemic problem in the system, right?

Mr. KIESERMAN. That is my understanding. And that is certainly how I approached it when I took the job.

Mr. GARRETT. Right. And so when you talk about the issues of well, they were just bringing up that there are certain cases, there is wind damage, certain times there are earth movements, other times there are problems that we have heard repeatedly storm after storm after storm. And, yet, here we are again in 2015, and I am trying to figure out what the common denominator is.

We know there are always going to be bad actors in the world. That is one common denominator. But the other common denominator is FEMA and the Flood Insurance Program in general. That is the common denominator over storm after storm after storm, decade after decade after decade, and as the judge calls it, a systemic problem. That seems to be where the problem is. And we have had these hearings before. We have reformed before. And we just come back again time and time again with the same systemic problem.

Mr. KIESERMAN. Congressman, I would say that the common denominator to emergency management in this country is FEMA and that FEMA helps millions and millions of people every year. And no one should forget that. I think it is absolutely the case that the

National Flood Insurance Program needs to be reformed. And I would tell you, back to my analogy about the iceberg melting, there are a lot of people in the insurance business and in the banking business and in other businesses who would tell you there is nothing wrong, this is a small number of claims. I am not sitting here telling you that today and neither is Administrator Fugate or Deputy Associate Administrator Wright. We are absolutely acknowledging that this iceberg is melting. We are just seeing the tip of it. And it needs to change. But I need this body and we need the others to help maintain that sense of urgency around this issue. Otherwise, it will just slip back again.

Mr. GARRETT. I yield back.

Chairman LUETKEMEYER. I thank the gentleman. Next for questions, Ms. Velazquez, the gentlelady from New York, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. Mr. Kieserman, I hear that you admitted that FEMA knew or should have known that there were claims of underpayment and fraud as early as 2013?

Mr. KIESERMAN. That is correct, Congresswoman.

Ms. VELAZQUEZ. So here you are. You said that FEMA is not an enforcer and FEMA is not a regulator. But what do you do when you made a statement like this, that you knew since 2013, so what do you do?

Mr. KIESERMAN. I think you do three things. You offer people a fair and reasonable settlement in litigation because they should have never had to sue you to get what they are entitled to. You open up the process and you offer people the opportunity, the 142,000 people who didn't sue us and sue the Write Your Own companies, the opportunity to have their claims reviewed. Because, given what has come to light, they should have that opportunity if they choose to. And then, finally, I think you set a course in motion to reform the program and to reform it permanently, so that we don't continue to go through this cycle.

Ms. VELAZQUEZ. What do you do with the Write Your Own participants? How do you hold them accountable? How do you send a strong message that we are not going to allow this type of behavior to ever happen again?

Mr. KIESERMAN. I think there are a number of steps. The first was taking control of litigation. Normally, in the litigation process, the Write Your Owns make the decision, FEMA pays all the money. We have taken control of litigation and we are settling claims. And we are doing that in ways that probably the Write Your Owns would prefer we didn't. But we are doing it that way anyway.

I would also say that the other thing we have to do with the Write Your Owns is try to make those who are willing be part of the solution. Because we will never have the capacity as a Federal Government to deliver an insurance program to 5.3 million Americans. We are going to need the insurance industry to help us with that. So I think we have to set a standard. We have to set a culture of being survivor-centric. And I think we have to be careful not to alienate the very people whom we need to deliver the program.

Ms. VELAZQUEZ. But we need to send a strong message to those in the industry. What type of stiffer penalties can we put in place to hold them accountable?

Mr. KIESERMAN. Congresswoman, I think the first thing we have to recognize is that before we start penalizing anyone, there are court proceedings that are going on and investigations going on. And I didn't wait for those, we didn't wait for those to conclude in order to try to compensate survivors through litigation and through claims. But I do think it is imperative to get to dispassionate facts about who did what and what really happened. So, for now, what I have done—yes, ma'am. Thank you.

Ms. VELAZQUEZ. Okay. I have other questions. In March, FEMA announced that they would reopen all 144,000 Sandy-related flood insurance claims for review. And while this is good news, many homeowners at the time may not have taken advantage of other Federal recovery programs like SBA disaster loans, with the reasonable assumption that their insurance would be honored. In light of the fraud allegations, should we reopen other forms of assistance for those who thought they were covered by insurance, were denied, and missed out on applying for a loan?

Mr. KIESERMAN. Congresswoman, I think that is a question for the SBA and, to the extent that it involves grants, for HUD and its grantees. From my perspective, we believe there was a sufficient basis to provide people the opportunity to have their insurance claims reviewed. And that is what we are doing.

Ms. VELAZQUEZ. It is our understanding that FEMA and SBA have worked out a way to avoid the duplication of benefits issued using a joint checks model. However, SBA was not the only entity providing assistance after Sandy. Will FEMA work with New York City to replicate that model to expedite and lessen the burden resulting from overpayments to homeowners from the city?

Mr. KIESERMAN. We have worked with New York City, with New York State, and with New Jersey State. And we will continue to do so. But everyone should understand that a grantor like New York City and New York State and New Jersey stands in different shoes than a loan maker like SBA. Policyholders assign their rights to policy proceeds to SBA so that SBA has a secured interest. That is not the case for the grant makers.

So I would say that if anybody took an SBA loan, we are working with SBA, and if SBA determines there is a duplication, then folks can use their insurance policy proceeds to pay down their loan. But if folks took a grant from one of the HUD CDBG grantees, then it is going to be imperative for them to decide whether they want to go through this process. Because they very likely already received funds for the exact same purpose we would give them money. And they will have a debt when that is over.

Ms. VELAZQUEZ. Going back to the handful of engineering firms that seem to be at the root of the Sandy fraud cases, how does FEMA currently conduct oversight over third-party contractors? And how, again, are these firms held accountable?

Mr. KIESERMAN. Recognizing the time, the oversight is conducted through what are called operational reviews that are conducted for a week every 3 years. They are wholly inadequate in my view. There are other existing forms, like monitoring for improper pay-

ments. But, again, I think we have lost sight of the network. And these are not adequate mechanisms. But those are the ones that are in place.

Ms. VELAZQUEZ. Thank you, Mr. Chairman. I yield back.

Chairman LUETKEMEYER. I thank the gentlelady. Her time has expired. With that, we go to the gentleman from Florida, Mr. Posey, for 5 minutes.

Mr. POSEY. Thank you, Mr. Chairman. Mr. Kieserman, thank for your candid responses. I very much appreciate it. Somebody joked earlier—you mentioned that one of your sons dropped out of college temporarily, and somebody said that if you asked him why, he is so straightforward, he would probably tell you. That is a real compliment. We don't get a lot of that. We get a lot of people who like to dodge answering any questions or giving straight yes-or-no answers. So hats off to you for that. Thank you. And good luck at the Red Cross.

What amount do you think was knowingly paid in losses to non-Sandy related property?

Mr. KIESERMAN. I don't have a number for that, Congressman. I will have to get back to you on that one. I honestly don't have a number for that at all. I'm sorry. Especially after those nice compliments, I feel bad. But I don't know the answer.

Mr. POSEY. I shouldn't have said anything. Are you aware that some were knowingly paid that were non-Sandy related?

Mr. KIESERMAN. I was not aware of that, sir.

Mr. POSEY. Like millions of dollars for new roofs on museums within a stone's throw of this building?

Mr. KIESERMAN. I don't know that those were flood insurance funds as opposed to funds from other agencies. But we can get back to you on that.

Mr. POSEY. Yes. And I am looking at the whole Sandy package. I know there was a lot of pork in there when I read it that wasn't related. And I know that the Rules Committee felt it was not in order to require an amendment that said all Sandy-related losses have to be related to Sandy. I know that is good congressional sense. But it is not good common sense.

And so my question to you is, how do you think Congress can better exercise its ability to perform oversight in the future? Members of Congress are really good at sitting back and patting ourselves on the back, saying we have it under control, until we have a catastrophic loss here, there, or elsewhere. And then, of course, it is the insurance industry's fault. It is the agency's fault. It is everybody's fault but Congress. What do you think Congress can be doing actually to be more engaged to make sure we don't have this kind of dysfunction when the time comes?

Mr. KIESERMAN. Congressman, I think you hit the nail on the head. We all tend to pay attention to the catastrophic. But the reality is that in an average loss year for insurance or an average disaster year for the country, that is the time to be paying attention. That is the time to hold hearings. That is the time to ask questions. That is the time for the agency to be looking at its organization. That is the time for that to happen. Because when the catastrophic occurs, it is all hands on deck and we are just trying

to deal with the moment. I think the key, as you pointed out, is having that level of attention when it is a non-catastrophic event.

Mr. POSEY. Exactly. Do you have any suggestions as to how we might engage that? Are there experts that we should bring in to do an audit? Do you think an Inspector General is sufficient? How do we look at doing a dry run? Do they have that? And who analyzes the results of those things?

Mr. KIESERMAN. I think GAO has done phenomenal work. And I would urge you to continue their use. I have reached out to GAO and they have begun an audit on our program to help us understand the forensics of where the money goes. I am a big believer in "follow the money" and that will help you understand the organization. And I think GAO can be a great asset to this body.

Mr. POSEY. Has there been—certainly we have all heard of people who dropped the ball, who didn't do their job. Unfortunately, some of them were Federal employees. What has been the level of discipline for those employees who did not perform as they should have in this situation?

Mr. KIESERMAN. As you know, there are several senior employees who have chosen to resign or retire as a result of this. And by doing that, I think they recognize their role and create space for others to come in and make change. There are some less senior employees whom I have asked the Inspector General to investigate so that we can, again, give everyone the process they are due, survivors, employees, contractors, everyone, so that we can understand. So I have asked the Inspector General to look at the performance of several employees whom I believe had information about this and should have alerted senior leadership earlier in the process. I am awaiting those investigations.

Mr. POSEY. I would hope that you would also include those members who have resigned and moved on. We had similar problems with Madoff at the SEC. And the Secretary came in here and actually told me, "We haven't disciplined anybody yet. But it might make you comfortable to know that X number of people resigned." Well, it really doesn't make me comfortable. They probably have similar high-paying positions in other agencies that we are paying. And it is like saying that when a pedophile changes neighborhoods, the problem is solved.

Mr. KIESERMAN. I agree, Congressman. Accountability doesn't stop when you leave the agency. I doubt it will stop for me. And it shouldn't stop for others. I can tell you that the States Attorneys General that are looking at this and the Inspector General are looking at anyone who is involved, regardless of their current employment status.

Mr. POSEY. Okay. Mr. Chairman, I hope we will get a report and an update on that. Even if he is gone, I would like to see the results of that for our committee. Thank you.

Chairman LUETKEMEYER. Absolutely. I thank the gentleman. And his time has expired. With that, we go to the gentleman from Texas, Mr. Green for 5 minutes.

Mr. GREEN. Thank you again, Mr. Chairman, and I thank the ranking member as well. I have been in Congress for a number of years. And I must say that I agree with Mr. Posey. Mr. Kieserman, sir, your testimony has been brutally frank. I rarely hear the level

of frankness that I have heard with your testimony. So I am grateful, as well, that you have been forthright. Now, I do have a couple of concerns. One, with all that you have said, I want to make it clear to all who are hearing your testimony that you do not contend that we should end FEMA. I think I am hearing you say we should mend it, but not end it. Is that a fair assessment?

Mr. KIESERMAN. That is a very fair assessment, Congressman. I think you need a very strong National Flood Insurance Program. The private market does not appear ready to step in. Americans and businesses, small businesses need access to flood insurance, 5.3 million Americans are doing it now and need it. I don't know where they get it if we are not here. So I think we need to strengthen the National Flood Insurance Program.

Mr. GREEN. Thank you. I had the opportunity this past weekend in Houston, Texas, to talk about FEMA and the various programs on a radio station. And we had a caller who appeared to be a young lady. Her indication was that she had paid her flood insurance regularly, wasn't behind, there was no lapse in the program in terms of her payments. And she indicated that she was very much distraught, perhaps not in these words, because the program did not reward her as she thought it should when she had fulfilled all of her obligations. And I am laying this out as a predicate for this question. Is it true that the penalty for overpaying a victim is more severe than the penalty for underpaying? I am trying to find some rational reason for the behavior that we are talking about today. Can you comment please?

Mr. KIESERMAN. Yes, Congressman. It is not the case that the penalty, if you will, for overpaying is more severe than the penalty for underpaying. The penalty is for not paying the correct amount, over or under. And that was not true 4 years ago. But it is true today, based on some changes that were done after Katrina. As far as what the reason is behind the conduct of engineering firms that alter reports or any of that, I don't have an answer for you. It is really difficult to understand why.

What I would offer to you is this: I think it is imperative that the system that we use to detect that kind of conduct needs to be strengthened. Because whatever the "why" is, until we understand the scope of it, we are not going to be able to fix it.

Mr. GREEN. I rarely try to get an explanation for irrational behavior. But usually when fraud is involved, there is some reward someplace in the system. And I am trying to find that gravamen, if you would, that reward that is in the system. Are you indicating that at this point, you too have not been able to locate the reward that someone would receive?

Mr. KIESERMAN. I have not. And I have brought forensic accountants in to help me. It is why I have asked GAO to come in. I have spoken with the Attorney General's Office in New York, in particular, because I know they are looking at the same question. I do not have an answer for you because I do not understand why anybody would do some of the things that are alleged.

Mr. GREEN. All right. Mr. Chairman, with the remainder of my time, I would just like to focus on Houston, Texas, and recent events. We have had a catastrophe. We have had much property damage. Lives have been lost. And it is our job, as Members of

Congress, to do all that we can to assist our constituents. But I also want to indicate that in Houston, I saw something that was very heartwarming. I saw a symbiosis develop. The mayor's office was involved and the mayor herself. The Governor immediately acted. The Red Cross, the agency that you are going to move to—and, by the way, I salute you if this is what you want to do—was very much involved. We even had the Mormon Church providing translators for persons who needed some assistance. We had a Chinese community center housing people who were victims of the storm. I want to just commend those in Houston who have done an outstanding job.

But I also want those who are still suffering to know that we plan to do all that we can to be of assistance to them, especially people who are out of their homes now and have no place to go. Some will, but many do not. And it is important that we do all that we can to help and that they not be defrauded in this time of need. It is exceedingly important. Mr. Chairman, I thank you so much for the time. And I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired. With that, we go to the gentleman from Virginia, Mr. Hurt, for 5 minutes.

Mr. HURT. Thank you, Mr. Chairman. I thank the Chair for holding this important hearing. Mr. Kieserman, I am Robert Hurt. I represent Virginia's 5th District in southern Virginia. What I hate to see, and I know we all agree on this, is one more reason why the American people don't trust the Federal Government. And this is a perfect example of that. The people that I represent weren't affected by Hurricane Sandy directly. But certainly, the same distrust and terrible behavior reflects and affects them much in the same way.

I guess my question, just building on Mr. Green's line of questioning though, it just seems impossible that you don't have some idea what it is that would motivate these agencies of the government, the engineering firms, or the adjusters to undervalue the damage. There has to be some incentive that can be adjusted to get to that. So it is hard for me to believe that you don't have any idea.

Mr. KIESERMAN. Congressman, I have talked to plaintiffs' attorneys, I have talked to judges, I have talked to insurance companies and adjusters and engineers whom I believe are credible, trustworthy people, and they don't have any idea. It is—

Mr. HURT. What could it possibly be?

Mr. KIESERMAN. I think there are separate pieces here. Where the adjusting piece is concerned, there is software that all adjusters use. And in the NFIP, there are multiple softwares that people are using. One of the things that I would change as a reform is I would go to a single software. I don't think you should have multiple types of software because they can result in different outcomes for different people. There should be consistency. So if there are errors in the software, errors in the algorithm, that can result—

Mr. HURT. But fraud necessarily requires an intent. So if there is intent to defraud the policyholder—I guess my question is, is having software that is inconsistent, that is not intentional, necessarily intentional. It could be, I guess. But that doesn't make sense to me.

Mr. KIESERMAN. No.

Mr. HURT. All right. What about on the engineering side? There are these allegations that reports were doctored. What is that about?

Mr. KIESERMAN. Right. So I think the best I can tell you is this that I do not understand why an individual at an engineering back office would take their report from a licensed professional engineer, alter it, not consult with that engineer, and then append that engineer's signature and seal.

Mr. HURT. Lazy?

Mr. KIESERMAN. Lazy is one—Congressman, I will be honest with you, I am back to "follow the money." I have to believe that somewhere, someone at some engineering company thought that they would either get more business if they found causation by flood less percent of the time, or maybe they thought they would get less business if they found otherwise. Maybe there is a money connection here we are just not seeing. But we haven't seen it.

Mr. HURT. Okay. But is that an incentive that is imposed by the Federal Government or by the Flood Insurance Program?

Mr. KIESERMAN. I don't know. And I don't think anyone else does either. This is one of the reasons why these Attorney General investigations are critical. We simply do not have the facts.

Mr. HURT. But who makes those decisions? I guess going back to Mr. Garrett's question, who makes the decisions about which engineering firms that are chosen? And does efficiency or lowest amount of claims or dollar amount of claims—is that an incentive for hiring these folks?

Mr. KIESERMAN. I don't have any reason to believe that is the case. But I do—so you asked me who makes the decision. The Write Your Own insurance companies and FEMA's direct side agent decide who to bring in for engineers. And most of the insurance companies, like FEMA, contract their work out to about nine vendors in the United States. So we are talking about 82 Write Your Owns. The reality of it is, there are about nine vendors and one or two companies who are doing most of the work here. And so what incentives do they have to hire bad engineers or to hire engineers who are going to defraud people? I don't know.

Mr. HURT. Who gets the money? That is the question. I am asking you that.

Mr. KIESERMAN. Right. The money flows—and this is the point—back in layers. So the contracting firms, the vendors get money. The Write Your Owns get money. The engineering firms get money. And this is why we need to follow the money. Because here's where we should be, we should be making sure that every person who has paid a premium and is insured and has a loss caused by the flood, that they get their money. That is where we should be focused right now. And that is where, I think, we need to make sure that the program is focused, to make sure that every person who has a loss gets every dollar to which they were entitled.

Mr. HURT. Amen. Really quick, we only have 10 seconds, the fact that you have opened up 142,000 other cases, does anybody have any idea what that process in and of itself will cost? And are there concerns about that—any additional cost?

Mr. KIESERMAN. The total cost of the claims review right now I estimate at about $40 million. And that is all the costs associated with running it, standing up, and doing all the work, and adjudicating claims. But, Congressman, to your earlier point about public trust and integrity, the cost of losing that trust is far greater than $40 million.

Mr. HURT. But we shouldn't be here in the first place.

Mr. KIESERMAN. That is right.

Mr. HURT. All right. Thank you. I yield back.

Chairman LUETKEMEYER. The gentleman's time has expired. With that, we go to the gentleman from Massachusetts, Mr. Capuano, for 5 minutes.

Mr. CAPUANO. Thank you, Mr. Chairman. And thank you, Mr. Kieserman. I think you are 100 percent right, obviously, to follow the money. This is a money thing. Where it is, I don't know any more than you know. But I am just wondering do, engineers or whomever get paid by the number of parcels they review?

Mr. KIESERMAN. In some cases, yes, Congressman, that's the model.

Mr. CAPUANO. So that the more they do, the more they get paid. And the more you do, the quicker you are, the less detailed you are. And when you bring that back to the home office to say, here are my 100 reports for these hours' worth of time, if you say no, no one is going to tell you to go back out and check it because there is no payment to be made. If you say yes, and they say, hey, Fred, I am not so sure, maybe you ought to go check that one again, if we don't get paid for it. I am not saying that is here. But there is clearly money involved. You are 100 percent right to chase it.

Mr. KIESERMAN. Congressman, I think you have a great point there. And all I would add is that just a few weeks ago in open court, there was evidence introduced that the billing process, even though it was a parcel-by-parcel structure—they billed a flat rate. And that was introduced in open court. So that is being investigated as potential fraud as well.

Mr. CAPUANO. We all look forward to the results of all that. Thank you. I want to talk to you about some of the bigger issues. There are some of us who have continued to look at the flood insurance situation, not individually Sandy, but, obviously, lessons learned from Sandy. But also how we keep this thing alive, how we improve it, how we make it work. I just have a question for you. If I had a home on the Jersey shore, and I ran away because I was told to leave, and I came back and my house was gone, do you think I would really care if it was swept away by the ocean tides or the wind or shifting sands or little mice? My house is gone. Do you think it should matter?

Mr. KIESERMAN. I, Brad Kieserman, don't think it should matter, Congressman. But I will tell you this, as somebody managing a Federal program, the actuarial difference between what it costs to limit causation to flood versus what it costs to deal with other issues is significantly different. And we are going to have to figure out how to manage that and how to educate the public about what they are buying.

Mr. CAPUANO. I understand. The Flood Insurance Program, as you say in your testimony, was created for classic floods, rain and

only rain, like what is going on in Texas right now. It wasn't necessarily created for hurricanes where there is wind and rain simultaneously. And it wasn't created for tornadoes.

I would argue that one of the things we need to look at is natural disaster insurance, as opposed to simply flood insurance, therefore, getting rid of all the nonsense about was it rain, was it not. We heard it in Katrina. We are hearing it again in Sandy. And to be perfectly honest, I understand the technicalities of why it has to be done. But from my perspective, I think it is stupid for us to require it; a disaster is a disaster. And whatever specific item caused your specific loss, in my opinion, shouldn't matter.

I guess I have another question. During your work, is there a difference if—I don't live on the shore of New Jersey. You know what? I have a small restaurant. I open it up 6, 7, 8 months a year, try to make as much as I can to feed my family and send my kids to college. A hurricane comes along, and my business is blown away. Should that be treated differently than a homeowner?

Mr. KIESERMAN. I acknowledge that there are a lot of public policy issues there. But if you are asking my opinion, my opinion is that if you are a small business and you have a loss, you should be able to get your loss adjusted and make sure that you get the money you need. You are the economic engine of the community. Why would we do anything other than treat them the same?

Mr. CAPUANO. I would agree with you. Yet, I know you know that when we "fixed" our problem with flood insurance, we didn't fix it for small businesses.

Mr. KIESERMAN. So we are now looking at the number of small businesses that we have. There is a study going on right now to identify how many small businesses are actually in the program. And that will help us understand better how we can better adjust their claims.

Mr. CAPUANO. And when Sandy hit did it—well, you tell me, again, I am not terribly familiar with the Jersey shore, but is everybody who owns a house on the Jersey shore, are they all wealthy? Is Donald Trump the only one who owns a house along the Jersey shore? Or are there some working-class people who have struggled hard to get maybe a small, tiny little piece of the pie?

Mr. KIESERMAN. I met a lot of working-class people, blue-collar folks, and people who have worked for a long time to get their homes, who were impacted by that—

Mr. CAPUANO. And some of those might be second homes. They actually might live in downtown Newark and have struggled to get a small, little piece on the Jersey shore so their family can get out of the city on occasion.

Mr. KIESERMAN. That is right.

Mr. CAPUANO. Yet, we didn't treat them well either. They are not covered by the fix that we had either, is that right?

Mr. KIESERMAN. Right. The primary residences are the main focus of the National Flood Insurance Program. Secondary homes are treated differently. I take your point about why people have second homes. But the public policy decision—

Mr. CAPUANO. I know. I am struggling with the public policy, I am not struggling with it, I actually think this is easy. Second homes—Donald Trump has a second home. It is too bad if he loses

it. But I am not going to cry a lot. But that is not most people who own a second home. And I am sure that in your work on the Jersey shore, you have seen that. And I know you have seen it. I know you saw it in Katrina. I know you see it every time there is a disaster in areas where there are some second homes. And I guess my time is over. And I appreciate it. Thank you very much, Mr. Kieserman.

Chairman LUETKEMEYER. The gentleman's time has expired. With that, we go to the gentleman from Florida, Mr. Ross, for 5 minutes.

Mr. ROSS. Thank you, Mr. Chairman. And, Mr. Director, thank you for being here. I come from a State that is surrounded on three sides by water. And we are used to a little bit of flooding. And we are used to some wind storms. We are also a donor State to the National Flood Insurance Program. We probably contribute more in terms of premiums than we ever get back in terms of claims. And my concern is is that we have created this model, that we use the word "insurance" when, in fact, what we have created is a relief model, relief being a post-event distribution of dollars in order to try to correct and resolve the damage, as opposed to insurance, which is a pre-event, actuarially-assessed, capital-based program.

And so now in the NFIP, as we have seen happen in Sandy and what we have seen in other areas throughout the country, is we really have a relief program. And, actuarially, I am concerned that we are not assessing the value of the risk. Because the risk is what the risk is, and you understand that. If you choose to live next to an ammunition factory, you don't want to light a match. That is the risk of living there. If you choose to live in an area that is under a floodplain, there is a risk there. And so what we have to do is we have to somehow balance a market to make sure that we have a capital that will come in and bear that risk at the price that is appropriate. But also we have to do, from a policymaking point of view, what is necessary to do, what we refer to as mitigation. Because if it is going to be a true insurance program, then we have to realize that the pre-event investment is going to save us on the post-event contribution. In other words, studies have shown that for every $1 in mitigation, you receive a $3 benefit in value when it comes to relief.

My question to you is, what is going on in terms of mitigation? Is there anything you specifically recommend that homeowners can do in terms of trying to mitigate against potential flood problems, whether it be structural improvements, whether it be waterproofing a basement, or things of that nature.

First of all, that risk, if it is borne by the individual homeowner and they are aware of that risk, they are aware of the value of that risk, they have a tendency to want to make sure that they themselves manage that risk and protect that risk. Mitigation is the area. I would love your comments on that.

Mr. KIESERMAN. I think it is critically important, whether it is homeowners or small businesses or public infrastructure that everyone prioritize mitigation, as you said, pre-storm and pre-event, because that is the way you truly buy down risk. You can either reduce risk, you can avoid risk or you can ignore it. We shouldn't be ignoring it.

Mr. ROSS. Right. I agree.

Mr. KIESERMAN. So in order to mitigate, if I am the homeowner, I can dry floodproof, I can elevate, I can look at structures to reduce flood flow into my home. Those are all measures you can take. Frankly, again, it is not an option for everyone, but some people can choose to relocate, especially if they are in a floodplain, and those are decisions that people have to make.

Mr. ROSS. Has it been your experience that when people are incentivized financially to make mitigation improvements, they will do so?

Mr. KIESERMAN. Sometimes, but there is more than just irrational actors involved in this. There is emotion involved. As the Congressman from New Jersey said earlier, sometimes people work their whole life and that is their parcel and they are not going to leave it. And so, I think it is both.

Mr. ROSS. I agree. But if given that emotional feeling, you would want to protect it and part of that protection is knowing that you have been incentivized to mitigate against them. For example, whether I have a tax-free savings account that I can use solely to put in that waterproof basement or put up those berms to keep from—

Mr. KIESERMAN. Right.

Mr. ROSS. Those would be good options, would they not?

Mr. KIESERMAN. I think they would be good options that are worth considering, along with the fact that to the extent that we can help people make good mitigation decisions, we can help educate people about how they can mitigate the risk and buy it down and how they protect their investment. That's a role all of us can play, including the banking industry and others.

Mr. ROSS. The housing industry, the banking industry, everybody.

Mr. KIESERMAN. Yes.

Mr. ROSS. I think this isn't just solely a government responsibility.

Let me ask you also, when we did the fix last year to the Biggert-Waters bill, we put a provision in there, I believe, that would allow for the disclosure of publishing of the science or the actuarial analysis that is being done. Has any of that been disclosed or has any of it even been requested by anybody on the outside?

Mr. KIESERMAN. I don't know if the disclosures have been done. We will get that for you. There are a number of studies going on, on the actuarial soundness of the NFIP. But the reality of it is, this is a subsidized product. And I agree with everything you said prior about this being a hybrid between disaster assistance as a relief program and an insurance program. It is not pure insurance. It is not actuarially sound, and frankly, I don't think it will be. If it were actuarially sound, the private industry would sell it.

Mr. ROSS. And we should get the privacy industry in there, and if we can let them assess that risk because there is opportunity for that capital to be there.

Mr. KIESERMAN. Yes, I agree. There is potential here, especially as we look at reform at a layered approach. It doesn't just have to be the National Flood Insurance Program. I think there are opportunities out there for reinsurance and other layers so that people

can buy down their risk with private products, and that this product is really the last line of defense not the first.

Mr. ROSS. Exactly. The market of last resort. My time is up. Thank you very much.

Mr. KIESERMAN. Thank you, Congressman.

Chairman LUETKEMEYER. I thank the gentleman. That was an interesting line of questioning. I enjoyed that. Very good, Mr. Ross.

With that, we go to the gentlelady from Ohio, Mrs. Beatty, for 5 minutes.

Mrs. BEATTY. Thank you, Mr. Chairman, and I thank our ranking member, as well.

Let me say to the witness, thank you. Usually, around here, it is bad news that travels fast about a witness. But I got a call saying we have a good witness, and both sides are saying that. So I expect you to carry that knowledge to your next position when you leave.

We have heard a lot about the situation here and we have also heard a lot about FEMA. So my question is, FEMA has asked the Inspector General to make recommendations to help improve its oversight role. Can you shed any light or share with us, are there any efforts to improve that role currently, or will FEMA take any actions on its own in the interim?

Mr. KIESERMAN. Congresswoman, we have established a task force at FEMA that I have had the honor to lead for the last 100 or so days. Mr. Wright will be taking over the overall operation here in a few weeks.

One of the three things the task force is doing is working near-term reform. We are not going to wait for others. We are going to move forward. We would like to move with our partners, but we know that there is a sense of urgency here and that we have to maintain that. One of the challenges that we have is that we have 75 Federal employees trying to oversee an enterprise of what really amounts to 6 million people when you take into account the 5.3 million policyholders.

So some of the things we can do, and I would just raise for Congressman Green from Texas, I do intend to establish before I leave this job a hotline so that your constituents and others who may be affected by floods this season can call us until we have a more robust network that allows us to detect and monitor these potentially systemic problems. I want to make sure people have a place to go before they have to appeal their claim to their insurance company, before they have to sue. We will have that established before I leave office here in the next week-and-a-half. So that will be the first thing that we do.

We are going to work with our Write Your Own companies and others to see how we can better structure our oversight. We have withdrawn on their authority to pay for engineering services without our preapproval. That will help us do a better job at screening the engineering companies. We are going to immediately increase our policyholder education so that people understand what they bought. That is one of the things I have seen, Congresswoman, is that people are very surprised at times of loss because they don't really know what they bought. We need to work that piece.

Adjustor training. The adjusters that we have brought in for the claims review process have received very special training. We are going to expand that to all adjusters over the course of the next year or so, so that all the adjusters can get the sort of training that we have that makes them more sensitive to the needs of survivors.

That is just a few of the things that we will be doing. The reform team has come up with well over 50 ideas that I am sure Mr. Wright and I will be talking about over dinner on Sunday night.

Mrs. BEATTY. Thank you so much.

Mr. Chairman, I yield back. If Mr. Cleaver needs some of my time, I would be willing to give him those minutes.

Chairman LUETKEMEYER. We will recognize the gentleman from Missouri.

Mr. CLEAVER. Thank you. Thank you, Mrs. Beatty.

My concern is, a lot of it is the fact that FEMA is apparently going to open up 144,000 claims and that is very close to, if not the same as, the number of claims originally filed, although only 2,800 were appealed—2,800 of those claims that were filed were appealed. What precedent will you be setting for the storms of the future, and is this a corrective step?

Mr. KIESERMAN. Congressman, this is a corrective step. It recognizes that there were deficiencies in the delivery of the program. So, I think two things have to happen: one, you have to provide redress for that now; and two, you have to correct the system going forward so that this doesn't happen again and you don't have to provide that type of redress.

And just to clarify, we are providing everyone who was impacted by the storm and filed a claim with the opportunity to have their claim reviewed, it is their choice to opt in. Some people have gotten what they needed. Some people are fatigued by this and are just done with government, and that is fine. Some people got money from SBA or got money from HUD and their needs were met.

This is really for people who believe they were underpaid and didn't have a form of redress. If you are litigating, you are not eligible for the process. If you had an appeal and it was closed, unless we can find wrongdoing, you won't be eligible for the services.

Mr. CLEAVER. We had a problem with Wall Street. They intentionally, the word was mentioned, committed fraud. Nobody has gone to jail. Nobody has even gone on trial for almost sending this Nation into another depression. Do you have any feeling about what will happen if we can prove without a doubt that insurance companies were committing fraud? Will someone be prosecuted? Will there be prosecutions, like if they robbed 7-Eleven?

Mr. KIESERMAN. I have no doubt that there will be prosecutions if there was evidence of that. But I will tell you, Congressman, that I think what you are going to see is evidence of subordinate entities doing that activity, not insurance companies. We will see.

Chairman LUETKEMEYER. Time has expired.

With that, we go to the gentleman from Pennsylvania, Mr. Rothfus, for 5 minutes.

Mr. ROTHFUS. Thank you, Mr. Chairman.

And I would like to pick up on a little bit of that line of questioning and also follow up on what Mr. Hurt was saying. Because I am still trying to get my arms around incentives that might be

out there. And maybe if we could talk a little about the transaction that happens for the homeowner. Who is the homeowner going to interact with in the process?

Mr. KIESERMAN. Congressman, in the review process or—

Mr. ROTHFUS. When the claim gets filed.

Mr. KIESERMAN. Right. So the first thing a homeowner does is that they call their agent and they say, I have had a loss. And then what happens next is the agent works with the homeowner and the insurance company to send an adjuster out. So that adjuster is the center of gravity for all of this. That is first contact, meaningful contact with an insurer.

Mr. ROTHFUS. And the adjuster then sends out the engineer?

Mr. KIESERMAN. The adjuster will call for an engineer if there is an issue with respect to causation of structural damage. Adjusters are not trained generally to assess structural damage. And so if they see that, they will bring an engineer in to say, hey, did the flood cause the damage, it is a—

Mr. ROTHFUS. So the engineer comes out, does a study, then somebody back at the office somehow changes that study or the evaluation?

Mr. KIESERMAN. Certainly those are the allegations of what occurred in Sandy, and I have seen evidence that that happened on multiple occasions. Should that happen? What I am told by professional engineering firms is that the notion of peer review doesn't involve the change in real time of reports. It involves a later look for QA, for quality assurance and quality control. It is not what has been alleged to have happened in Sandy.

Mr. ROTHFUS. These engineers are licensed in a particular State?

Mr. KIESERMAN. That is a great question. In Sandy, some of the engineers who performed functions were not licensed in the State where they were working. Some of the engineers who reviewed in the back office were not licensed in the State where the residence was located. And some engineers weren't licensed at all. In fact, some of the people doing this were biology majors.

Mr. ROTHFUS. Are the processes that were followed in Sandy typical for how other claims will come in for NFIP?

Mr. KIESERMAN. I don't know the answer to that, sir, because if we knew the answer, we would have prevented this up until now, which is why we are putting some of these measures in place in Texas and elsewhere so this doesn't happen again.

Mr. ROTHFUS. Has FEMA's Inspector General been engaged to review this matter at all?

Mr. KIESERMAN. Yes.

Mr. ROTHFUS. What is the scope of that review?

Mr. KIESERMAN. Sir, I think you have to ask the Inspector General, given their independence, but within the first week of taking the job I put a full referral package together. And I will just add that I met with plaintiffs' attorneys, the lead plaintiffs' counsel in this case. He was very generous in giving us information about his cases that we shared with the Inspector General and with the State's attorney in New York and New Jersey, so that they don't have to spend time reinventing the wheel on the investigation.

Mr. ROTHFUS. In the claims process, what interaction is there between WYO, an engineer, an adjuster, and any individual at FEMA?

Mr. KIESERMAN. Minimal, and it varies from Write Your Own to Write Your Own. Some of them use different models in terms of the services they buy from vendors. In some cases they get complete service from a vendor and they have minimal interaction. FEMA's first interaction in most cases with an insured is in the appeals process when the insurance company has denied a claim and an insured comes to us. And as I said in Sandy that happened—

Mr. ROTHFUS. Do you know whether the Inspector General is asking or has asked for information from FEMA employees who may have any information about what happened prior to an appeal?

Mr. KIESERMAN. I do not know the answer to that.

Mr. ROTHFUS. In your testimony, you stated that NFIP has no consistent or reliable method to identify systemic problems, preemptively identify and address claims or appeals with similar adjustment issues, or recognize patterns from warning signs by policyholder complaints, congressional correspondence, appeals, and other data. What is being done about that?

Mr. KIESERMAN. Several things. So to begin with, we are putting significant resources on bringing in the information technology that we would need. I am sure within the next year we will be setting a standard for data collection, this next year or 2 years a standard for data collection, so that insurance companies and others give us a standard that we can work through. We will set up this hotline so that we have the ability now to connect the dots and sort of clear the signal-to-noise ratio, which has been a problem.

But I think the real focus here is going to have to be the development of a customer service unit that focuses on the customer. And whether that is a combination of secret shopper or customer interviews, we cannot rely on adjusters and WYOs or anyone else to be assessing the services the customer is getting. We have an obligation to assess the customer service.

Mr. ROTHFUS. Thank you. I yield back.

Chairman LUETKEMEYER. I thank the gentleman.

We will now go to the ranking member of the full Financial Services Committee, Ms. Waters from California, for 5 minutes.

Ms. WATERS. Thank you very much.

I am sorry that I was not able to be here at the same time that Chairman Hensarling was here, because first of all, I would like to express my deep concern about what is going on in Texas and inquire about what is being done to make sure that the citizens are being taken care of and that bodies are being located that may not have yet been identified as lost.

But I would like to ask Mr. Kieserman here today, have you had an opportunity to talk with our chairman, to explain to him what you know about what has happened in Texas and how severe that is?

Mr. KIESERMAN. No, Congresswoman, I have not had that opportunity.

Ms. WATERS. Perhaps he has not had the time to make that call to you, but I would ask you if you would offer yourself to the chair-

man to explain to him exactly how devastating the storms have been in Texas, and what it is going to take to compensate those who have been displaced, whose homes have been destroyed, on and on and on.

I think it is very important. You may know that during the time that we were involved with the reauthorization of the National Flood Insurance Program, perhaps the chairman did not feel that we needed to reauthorize that program. And I am not asking you to convince him of anything. I am just asking you to share with him exactly what has taken place in Texas. This may cause him to rethink what he feels about the National Flood Insurance Program. So I appreciate that.

Now, having said that, the NFIP is in the red with a staggering debt of $24 billion. Most people assume that is because of subsidies written into the program, but historically, the program had been self-sufficient. I believe we should be taking a close look at the administrative cost of the program.

And I would like to ask, to what extent has FEMA revised its WYO compensation practices to address concerns identified in prior GAO reports? For example, a 2009 GAO report found that FEMA consistently overpays WYOs for operating expenses. The WYOs currently receive 30 percent of premiums just for operating expenses yet they hold none of the risk. So what, if any, is your timeline for better aligning the cost and expenses of the WYO program?

Mr. KIESERMAN. Congresswoman, we have literally just met in the last week or so with GAO, who are now opening a very specific engagement on WYO compensation. And we gave them a substantial amount of input about our concerns, some of which we shared with you about the compensation framework.

I would offer just two points, if I might. First, I respectfully disagree that WYOs don't share in the risk. While it is true that they don't financially share in terms of the pool of money from which claims are paid, I think if you asked any of the 25 or 27 or so companies that are in litigation in New York and New Jersey today, they would tell you they share considerably with respect to reputational harm.

And frankly, I want them to share in that risk with FEMA and with the government. That is what we need in our partners regardless of whether they are contractors or Federal entities. And many of those Write Your Owns, Congresswoman, have, in fact, stepped up now that the evidence is becoming clearer. Some still need some additional persuasion.

The other point that I would make with you is that 30 percent, while it sounds like a large number, when you look at the industry-wide standard for overhead, it is not that far out. I believe we can get that number down and get service up, but I do want to put that in context. So I think our goal needs to be working with GAO and working with the Write Your Owns to cut layers out of this that we don't need 32 years into the program.

We may end up reducing the number of WYOs or changing the structure of that, but there are ways for us to reduce costs while still increasing services, and I want to work with GAO and our

partners to do that. And I know Mr. Wright is committed to that as well.

Ms. WATERS. Thank you very much. This is not in my notes for today, but it has been in my head for a long time. Because I am so concerned about the premium costs of this insurance to our constituents, I would love to forgive the whole $24 billion, wipe it out. I know that is an unrealistic wish, perhaps, but what do you think about a bold idea like that?

Mr. KIESERMAN. Without getting myself in too much trouble 10 days before I leave Federal service, what I would say is this: This is not an actuarially sound program, and it was never designed to be. If a program could be delivered in an actuarially sound way, private industry would have taken care of it, and we wouldn't be involved.

The notion that there is $23 billion in debt, as you said when you began, the Write Your Own program and the NFIP generally have run solvent with the exception of 9 years out of about 34 years. And one of those is Katrina. And I will just leave with this comment: The NFIP was as much a victim of Katrina as everyone else who was a victim of Katrina. It literally blew us out of the water.

Ms. WATERS. Thank you very much. I yield back the balance of my time.

Chairman LUETKEMEYER. The gentlelady's time has expired.

With that, I recognize the gentleman from Texas, Mr. Williams, for 5 minutes.

Mr. WILLIAMS. Thank you, Mr. Chairman.

And thank you, Mr. Kieserman, for your testimony today.

As you can imagine—well, first of all, I am from Texas. And Wimberley, Texas, is in my district. And you are very familiar with that. So as you can imagine, we are feeling for our fellow Texans as they are experiencing historic flooding, and this hearing to me is very timely.

As you said in your testimony today, millions of Americans are physically and financially vulnerable to floods. A week's worth of flooding in my district, quite frankly, has brought that statement very close to home. As you probably know, the President just recently approved Governor Abbott's request for a major disaster declaration just last week; he approved it very quickly. The residents in Hays County, Texas, in my 25th district, which I represent, are beginning that process.

Now, it goes without saying that I have a vested interest to make sure we get it right and that we fix the problems we have discussed this afternoon. I will tell you, shortly after this, I called your FEMA office and talked to the regional director. He was very much on top of the job. He got with us. They were on the ground, and I appreciated that very much and I have made that public.

So I guess I would say my first question to you is, you mentioned, of course, that we have 142,000 claims which you are reopening. And you said that is approximately $40 million, is that right?

Mr. KIESERMAN. That will be the cost to do the work. That is not necessarily the outflows of policy—

Mr. WILLIAMS. Okay. Now, what does that do to your budget?

Mr. KIESERMAN. There is no impact, Congressman, on our borrowing authority or our cash on hand. We have sufficient funds available on hand without having to borrow additional funds.

Mr. WILLIAMS. But Sandy did strain your resources?

Mr. KIESERMAN. Sandy did constrain our resources, yes.

Mr. WILLIAMS. All right. So when I go back home to Texas, you are going to have plenty of room to help my Texans get done what needs to be done, right?

Mr. KIESERMAN. We have sufficient funding available right now to deal with the disasters in Texas and Oklahoma and elsewhere. And I would also just point out that we did extend the period to file proof of loss by an additional 6 months to give people space and time to do that. We know it is going to take them time to get back into their homes, and it is going to take time to find all the damage. So they will have now up to 240 days in order to file their proof of loss, and that should help.

Mr. WILLIAMS. All right. Next question is, you have talked about reforms and the reforms you are doing now to make things better. And you talked in pretty good depth about that. Is it safe to say that all the reforms you talked about that you are making, that you talked about making today, will my constituents in Texas begin to see it tomorrow?

Mr. KIESERMAN. I think that your constituents in Texas can count on the fact that we are hyper attentive to what is happening in Texas and Oklahoma and flooding this year because of what we have seen happen in Sandy; Mr. Wright and I and the leaders in our team are hyper attentive to this. That is why we are going to establish a hotline, that is why we have extended the proof of loss, and that is why we are going to be watching very closely on the ground from Washington in working with our Write Your Owns to reduce any sort of risk that this could happen again.

Mr. WILLIAMS. So we have learned from the past, and we can be reassured that what we are talking about today won't happen again in Texas and Oklahoma?

Mr. KIESERMAN. We are going to take every step we can, Congressman, to prevent that from happening.

Mr. WILLIAMS. Because we have already had 5,000 claims in a short period of time, and you know there are going to be a lot more. So we really want to get it right.

Mr. KIESERMAN. We do.

Mr. WILLIAMS. I come from a retail background, and I think it is important that you—and I told your guys this when we talked last week that, please understand, these people are customers. They are customers. And they need to be treated as such. And they deserve good, they deserve on-time service with very few hassles. And I hope all of your folks will understand that.

Thank retail and give them the opportunity to realize the benefits that they have coming to them and begin to get their lives back. Texans are resilient people and they just kind of need to know the rules. But I hope we have remembered from what has happened so we won't see this happen again. But I do thank you for your service, and I will look forward to working with your agency as we move forward to fix our needs back home in Texas.

Mr. Chairman, I yield back.

Chairman LUETKEMEYER. The gentleman yields back.

With that, we recognize the gentleman from Kentucky, Mr. Barr, for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman. And Mr. Kieserman, thank you for your testimony here today, and thank you for your forthrightness in acknowledging that there is a problem with the National Flood Insurance Program. I, too, saw the 60 Minutes spot with your interview and with the really sad and tragic story of the victims of the mismanagement with the program. And obviously, the stories that were told in that 60 Minutes spot and some of the testimony that you are offering here today demonstrate that the program does indeed need reform, there are governance issues, and there is a lost capacity to monitor some of these insurance carriers and the engineering firms that made some egregious, egregious errors.

In that interview that you had with 60 Minutes, one of the points you made was that you had seen evidence of fraudulent reports and criminal activity by unlicensed engineers in August of 2013. I know you came in after that, but you saw that as soon as you came into your position of authority with the agency and that was why you referred the matter to the Inspector General.

My question to you is, when do you believe evidence was available to your predecessors at FEMA that there was a problem? You indicated that there were signals in August, in late 2013. When were your predecessors made aware of the signals, or even worse, the actual evidence of misconduct by partnering insurance companies and engineering firms?

Mr. KIESERMAN. Congressman, I think members of the staff had information in their possession by October, November of 2013, so one year after Sandy struck, that would have led a reasonable person to conclude that there was at a minimum, irregular activity going on that warranted investigation. We did not act on that. I don't know that my predecessors were ever briefed on that. In fact, I don't think they were.

It is one of the reasons that I think I need to reform that particular part of the program, because it is often the first time we touch the customer, that we have customer contact, and we have to get it right. And we didn't get it right.

Mr. BARR. Okay. And the Inspector General, have there been findings issued yet?

Mr. KIESERMAN. The Inspector General received a referral from FEMA after a Senate hearing in July of 2014. The criminal side declined to investigate. The programmatic audit side opened up an audit investigation. In defense of anyone who declined to investigate, I have to tell you, I don't think that all the pieces were clear. I think there was a high level of noise to the signal. There were lots of other things going on in the system until plaintiffs' attorneys really began to marshal the facts and do their jobs in court in New York and New Jersey.

And frankly, when the plaintiffs' attorneys did that, it became very evident what was happening. And so we ended up relying on the courts and plaintiffs' attorneys and judges.

Mr. BARR. What is the current liability of the NFIP? Is it $23 billion?

Mr. KIESERMAN. It is $23 billion currently in actuarial debt.

Mr. BARR. So there is enormous pressure on this, as you concede, an actuarially unsound and designed to be actuarially unsound Flood Insurance Program.

Mr. KIESERMAN. Right.

Mr. BARR. But there is enormous pressure to deal with that liability at the agency. So my question to you is, is there any evidence, to your knowledge, that FEMA is responsible for pressuring the engineering firms or the insurance companies to cram down these claims?

Mr. KIESERMAN. I haven't seen a shred of evidence of that, Congressman. Not a shred.

Mr. BARR. Okay. Part of the problem, and by the way, the seventh vote that I cast as a Member of Congress in January of 2013 was whether or not we were going to raise the borrowing limit for the National Flood Insurance Program in the aftermath of Superstorm Sandy.

And one of the problems that many of us had with simply raising the borrowing limit without reforms was that you create this pressure at the agency to not pay claims that people are entitled to. Perhaps we need to reform the program so that there is a little bit of better pricing involved so that you don't have this pressure at the agency to deal with that issue.

My question to you is, why would you not entertain reforming the program so that there would be better pricing of the risk?

Mr. KIESERMAN. I think it is a balance between properly pricing the risk and making sure that it is affordable, because if people can't buy it and they can't get policies, then we have no revenue to pay claims. So, it is a little bit of a catch-22.

I think in the end, it really does come down to fully understanding the risk, which is the importance of mapping and the other programs to do risk identification, and then figuring out how do you get to a price that people can afford that properly balances the risk. This goes to the layers that private insurance can provide.

Mr. BARR. My time has expired, but if you are not properly pricing the risk, you are subsidizing risky building.

Mr. KIESERMAN. I would say that you are not properly pricing the risk. You are, in one case, dealing with people being able to afford it but then you have to look at the balance of whether you are subsidizing other risk. I agree with you. It is a public policy balance issue.

Mr. BARR. My time has expired. I yield back.

Chairman LUETKEMEYER. The time of the gentleman has expired.

With that, we recognize the gentleman from Ohio, Mr. Stivers, for 5 minutes.

Mr. STIVERS. Thank you very much.

I certainly appreciate you being here, Mr. Kieserman, and I know your days are kind of numbered at this point, and I appreciate your forthrightness, especially with regard to the third point in your policy about reforms. I appreciated your forthrightness there and in answering Mr. Ross' questions from Florida about the status of the program, and clearly it is not actuarially sound.

There is clear, adverse selection in flood insurance because the only people who buy flood insurance are people who are guaranteed

to file a claim at some point. Instead of spreading risk around, we spread the plate around, and there is never enough money and the taxpayers end up subsidizing. And that is always going to be somewhat the nature of the program; I understand that.

But I want to focus on your reform efforts, because I think there is a way to be more efficient, to actually manage the risk better. And I know you have been working on it for a while. I am curious if Mr. Wright has been engaged in these efforts, because frankly, some of the things you talked about, about reinsurance, and making sure that the Flood Insurance Program has some private sector engagement on pricing that I think will help everybody understand what the true risk is and help as you do that delicate balance of pricing to ensure accessibility, while also making sure that we charge as close to an appropriate amount as we can.

So I guess my question is, has Mr. Wright been involved?

Mr. KIESERMAN. Congressman, Mr. Wright has been involved, and I have to say that in addition to being my colleague and my friend, he has one of the highest degrees of business acumen in a government executive that I have ever encountered. He has been the Deputy Associate Administrator for Mitigation now for several years, and he has been involved in the National Flood Insurance Program in all of its aspects for several years.

He also has at his disposal now a nearly 100-person task force, about a quarter of which is focused on reform, and that is all they come to work to do every day is to analyze this program and develop reform. Mr. Wright is probably the most capable person to drive this forward. He is far more capable in that area than I am. All I do is fix things that are broken. I am not very good at long term.

Mr. STIVERS. This thing is broken and needs to be fixed.

Mr. KIESERMAN. And he will do that.

Mr. STIVERS. I wish you would be around a little bit longer.

But the other concern I have is, if we don't step up our premiums quickly enough, it does not give incentives for the State and local governments to change their building standards and where they build. Because if we heavily subsidize through taxpayer subsidies, coastal properties or risky properties, I should say, because they are not all coastal, where we shouldn't be building, then we don't fix the real problem.

The real problem is we have some things built in high-risk areas that frankly shouldn't be built. And I will single out one State in one area; Ward 9 in New Orleans probably should not have been rebuilt.

Mr. KIESERMAN. Congressman, Mr. Wright has been instrumental in leading the effort to develop a Federal risk management standard for flooding, which has been implemented through Executive Order. It will affect Federal investment as opposed to State and local-only investment. But that is leadership by example, and it is a way to ensure that we are putting in money in ways that mitigate risk and don't have us repeating this over and over again.

Mr. STIVERS. Which is helpful, and it is a start of what we need to do. But if we raise the premium to a number closer to the actuarial standard and what the real cost of the risk is, then it would discourage people from rebuilding in some areas where they

shouldn't rebuild. And I would like to encourage you, while I don't want to kick people out of their ancestral home, if their ancestral home is 3 feet below sea level and there is an ocean right there, that is a problem.

Mr. KIESERMAN. I appreciate that, Congressman.

Mr. STIVERS. So if we can work with you on any of the legislative changes, Mr. Wright, that need to be made—

Mr. KIESERMAN. Absolutely.

Mr. STIVERS. And I know a lot of things that you need to do will require legislative language. It does not require legislative language to train your adjusters and agents better or to align your management at litigation better, which I think can help the process along. It also probably does not—I don't think it requires legislation to require certification of your engineering firms that are filing reports, some of whom might have done so fraudulently.

So I think there are a lot of things you have latitude to do to fix your processes, but to the extent that you need any legislation, my staff and I would love to help. I know there are other Members who are taking leadership roles already, but I am happy to help any way I can. And I just wanted to say that really for Mr. Wright's benefit.

And I wanted to tell you, Mr. Kieserman, good luck at the American Red Cross. I am sure you will do a great job there. That is a very important organization. And as a soldier who gets to see some of their notifications and what they do with blood and other things, I really appreciate what they do there as well as the natural disaster piece. So thank you for that.

And my time is up.

Mr. KIESERMAN. Thank you, Congressman.

Mr. STIVERS. And I yield back.

Chairman LUETKEMEYER. The gentleman yields back.

We will now go to the gentleman from New Mexico, Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman.

Mr. Kieserman, I appreciate your testimony, especially with the straightforward approach you take to explaining the problems that the agency faces.

As I was listening to Mr. Ross describing that Florida is surrounded on three sides by water, I realized that New Mexico is surrounded by water too. We have about 2,000 miles of buffer on the east side, and about 1,000 miles of buffer on the west side, Central America, Mexico, and Texas to the south of us, but other than that, we are surrounded by water.

The problem that I have is that as we found the problems of Katrina, then we begin to raise the rates on people in New Mexico and so we went first to, I think, from a 250-year event to a 500-year and a 1,000-year event. Who makes the choice to do that?

Mr. KIESERMAN. The rate structure is established in part in legislation and then in part by the actuarial structure of the program. So particularly after the legislation of the last several years, there is a mandatory rate structure that we have to follow.

Mr. PEARCE. But who decides the flood event rather than—

Mr. KIESERMAN. I'm sorry?

Mr. PEARCE. Who decides the flood event rather than increased premiums?

Mr. KIESERMAN. That is a process of mapping, and the way that we assess risk is by creating flood maps. And FEMA is responsible for the creation of flood maps with the participation, the very active participation of communities to help them understand their risk.

Mr. PEARCE. Okay. But then the agency—is it the National Flood Insurance Program that eventually decides that they are going to go with those flood maps or not?

Mr. KIESERMAN. Yes, that is correct. And the community is a part of that as well.

Mr. PEARCE. Just be aware that I have a constituent who lives 7,000 feet above main sea level on a mountain, 3,000 feet above the little stream that is about as big as the pencil here running down, way down there, and he has to pay flood insurance because he is in the 1,000-year event level.

So we are charging people who live on the top of a mountain in New Mexico, where the last time it rained was during that NOAA event, so we are charging them so that the people on the coast can rebuild houses that have been destroyed before at less-than-market value. And that is the problem. The average wage in our district is about $31,000, so we are taking from people making $31,000 a year in order to subsidize people with oceanfront property and that is a problem. And I don't think that it is going to change, because I think your agency is, frankly, going to do the same thing regardless of if you are there or not.

I was interested in your answers to Mr. Williams. You said you are going to watch very closely to reduce the risk in Texas. Does that mean you are going to audit the vendor? You are going to review the engineering reports? What? What are you going to do differently?

Mr. KIESERMAN. We are going to put an audit regime into place in near realtime so that we—and, of course, you need to understand the flow of events. Everything doesn't happen on day one. Many people won't even file a claim for another 3 or 4 or 5 months, and that is one of the reasons why we have extended the period for proof of loss.

So this program has a habit of sometimes using the phrase—it is probably inappropriate here, and my staff is probably cringing—it is a little bit of the pig in the belly of the snake, right. And it takes a while for these pieces to move through and then suddenly it pops up later on and it is all but forgotten in the media, but then we have problems.

I want to get in there early now. I want to take a look at what is going on. I want to make sure we are monitoring the flow of claims, monitoring the process of engineering, do secret shopper and check with people and see how that is working and create this hotline. I think that combination of audit interventions will help us significantly reduce the risk of any improper conduct or wrongdoing, along with alerting our Write Your Owns, which we have done through a bulletin to what our expectations are with respect to adjustment of claims and engineering.

Mr. PEARCE. You had mentioned then in answer to a previous question that one of the problems in Sandy was—and then you listed a series of problems with the engineers, and one was that they weren't licensed in the State in which they were operating. Now, that may be a technicality, but have you figured out that those people who weren't registered were a source of the problem?

Because what I typically see as bureaucracies find a reason and just something to say, okay, okay, we have found the reason and let's go on. I suspect that if they are licensed engineers, if they weren't corrupt, that their stuff may have been somewhat correct. It may not have been perfect. Did you drill down on that at all?

Mr. KIESERMAN. We have drilled down on that some, and I can tell you that at least in the case of one of the engineering firms that had a substantial part of the business, the individual who changed the report and then affixed the seal—

Mr. PEARCE. That is not a matter of being registered in another State. That is a matter of corruption.

Mr. KIESERMAN. That is certainly a matter of not being licensed at all. I agree.

Mr. PEARCE. Have you gone back in the history of any of these people who have had problems, submitted previous reports 5, 10, 15 years ago? Are you checking that far back on the people with problems?

Mr. KIESERMAN. We are not checking that far back on people with problems. And I don't know whether the States' attorneys general are checking that far back on people with problems. One of the things we are doing is looking at people who had their claims adjusted with Irene or Lee just a year before Sandy to see whether adjusters or engineers came in at that point and identified preexisting damage. If there was no preexisting damage a year before, it is a little difficult to believe there was some new long-term preexisting damage that was discovered.

Mr. PEARCE. Yes, at the end of the day, people have to implement changes, and that I am a little bit worried about. But I do appreciate your approach, and I appreciate your service.

Thank you, Mr. Chairman.

Chairman LUETKEMEYER. The gentleman's time has expired.

With that, we will recognize the gentleman from New York, Mr. Meeks, for 5 minutes.

Mr. MEEKS. Thank you, Mr. Chairman.

Thank you, Mr. Kieserman. And I apologize; I was running around. It has been a busy day. But I represent the Fifth Congressional District in New York, which is basically the Rockaways in Jamaica Bay which was really devastated by Hurricane Sandy. And so I want to make sure I have the procedures and everything down because last month, a number of individuals in my constituency began to receive mail from the postal service informing them about the review process dealing with some of the claims of underpayment and fraud.

So first, I just want to make sure that I am absolutely clear on what the process is. As I understand it, the homeowners who feel that they were, that they under settled, will get a 1–800 number that they will call to request a review, and a caseworker, I think, will be assigned to them to complete the file and that takes 30 to

45 days. And then it will be sent to an adjuster, who will then contact the policyholder within the next 7 to 10 days, and that puts us at 55 to 60 days out when there should be some kind of correspondence there, I guess.

And then a final decision with payment will be made in the next 7 to 21 days after the adjuster submits findings and determines the constituent is either eligible for additional payment or out of riders. Is that correct?

Mr. KIESERMAN. Congressman, that is mostly correct, with just a couple of adjustments, no pun intended, if you would. The caseworker who will be assigned will be an NFIP-certified adjuster who has been specially trained by our program. So the caseworker is the adjuster. There is not another layer in there.

In terms of how long it will take to process claims, cycle time will depend on input. So right now, we are receiving about 300 to 400 calls and emails a day, that is not just the 1–866 number people can call, that is on the Web page. They can also go online and they can register online and then we call them and collect the information and ensure they are eligible.

No one should be in the process for more than 90 days. Our target will be to have a significantly lower turnaround time, but it will depend on cycle time and complexity of the issue. But otherwise, I think you got that pretty much right, sir.

Mr. MEEKS. And there are already resources, because sometimes you get these things set aside because it could be over 142,000 letters, from my understanding, in potential cases. So have resources already been set aside so that we can make those timeframes and have the appropriate individuals who are going to do the inspections—are those resources all there?

Mr. KIESERMAN. Yes, Congressman. So 95,000 letters have gone out as of today. We will send out another 40,000 or so out over the next 2 weeks. By June 11th, all the letters will be out. People don't need to wait for their letters. They can call now or they can email now if they had a Sandy claim. We have 600 human service specialists—these are people who answer the phone and do intake—fully trained and ready to do this. I have gotten some very positive feedback from your colleagues about your constituents' interactions with them. And I have gone back to them and told them I want them to keep all that up.

We have 140 adjusters on staff. And yesterday or today we are awarding a contract for neutrals, because one of the things you didn't mention is that if an insured is not satisfied with what their adjuster caseworker has developed, they can, in fact, get the services of the complete third party neutral that we will provide at our cost to really make a final decision on this one.

Mr. MEEKS. Good point. I meant to ask that question with regard to neutrals.

Mr. KIESERMAN. Yes, sir.

Mr. MEEKS. But let me follow up then more about the appeals process. Are there mechanisms in place or being developed to identify genuine claims and mitigate prior to legislation? Is that occurring?

Mr. KIESERMAN. One of our top priorities, and where we are working right now, is to overhaul the appeals process. And I would

say generally, it is the entire NFIP dispute resolution process; it is not just appeals. It is how people are treated in the field with an adjuster. It is how people are treated when they call their insurance company. It is the entire dispute resolution network that is there. We are moving to overhaul all that.

The FEMA appeals network, though, will be appointing a new lead here in the next few weeks, and we will be contracting to bring people into help us do business process improvement with that now.

Mr. MEEKS. So those individuals will sit within the FEMA organizational structure?

Mr. KIESERMAN. They do.

Mr. MEEKS. Okay. And they are decided—well, let me, in the past, when the victims filed appeals in the past, could you tell me, do you have any idea what the success rates were?

Mr. KIESERMAN. 15 percent, Congressman. If you were a survivor, the average rate of appeal is about 3 to 5 percent of all claims filed are appealed. And of those, only 15 percent do we generally recommend to the Write Your Owns that they come up with a different answer. That does not necessarily indicate to me that the process works well. It indicates to me that people may be fatigued by the process and they may be worn down by the process.

I don't think we have any internal or intrinsic view to though know whether that means we have a well working process or not. What I saw in the aftermath of Sandy with whether appeals detected wrongdoing or not concerned me enough that I wanted to overhaul the program, and the Administrator has directed me to do so.

Mr. MEEKS. Thank you very much. I am out of time, but I want to thank you for your testimony and wish you success.

Mr. KIESERMAN. Thank you, Congressman.

Chairman LUETKEMEYER. The gentleman's time has expired.

We would like to thank Mr. Kieserman for being here today. Thank you for your testimony. You have been very frank, very forthcoming, and we certainly appreciate it.

You mentioned several times, reforms that you would like to see. I know I asked the question about it. You have also talked about a reform task force that you put together. If we can get you to give us some information on the task force, the parties that are involved, what you are trying to do with it, that would be fantastic.

I understand that either yourself or some of your staff are going to sit down with the committee staff shortly, in the next week or two here, and discuss some reforms. We certainly want to continue to look forward to that opportunity.

And also, if you have other ideas, to be willing to put them into a letter form or to inform your staff when they meet with our committee staff to see what your suggestions would be. Sometimes you need to be talking with the people who are in the eye of the storm to figure out what is going on and what we need to actually do to change things.

But we certainly appreciate all of that. I wish you well—

Mr. KIESERMAN. Thank you.

Chairman LUETKEMEYER. —in your new occupation. I know Mr. Wright has an awfully big set of shoes to fill. I wish him well and look forward to working with him in the future.

I know one of the issues that was of concern to me that was brought up today was the mapping. I, like Mr. Pearce, have homes in my district that are sitting literally hundreds of feet above a floodplain and yet they are in a floodplain. So we have some work to do there, and we will look forward to working with you on that.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witness and to place his responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

And with that, this hearing is adjourned.

[Whereupon, at 3:59 p.m., the hearing was adjourned.]

A P P E N D I X

June 2, 2015

Rep. Peter King Statement for Housing and Insurance Subcommittee Hearing entitled "The National Flood Insurance Program: Oversight of Superstorm Sandy Claims"

I'd like to thank the Chairman for holding today's hearing on the National Flood Insurance Program (NFIP) in the wake of Superstorm Sandy. Many of my constituents were faced with unthinkable task of putting their homes and their lives back to together after the devastating impact of Sandy. These individuals, many of whom had never experienced flooding before, rightfully expected a fair and expeditious claims process. Instead, the experience was frustrating and confusing and many claims were denied or underpaid. I am pleased that FEMA is offering the opportunity for victims to have their claims reviewed to ensure that they receive the appropriate payment.

The allegations that engineering companies altered field engineers' reports and misrepresented the cause of damage is alarming and raises serious questions about oversight of the program. Long Islanders have already sustained tremendous losses and survivors do not deserve to have their claims denied over questionable reports or systematic criminal behavior. I look forward to getting some answers today from the witness and again I want to thank the Chair and Ranking Member for holding this important hearing.

A STATEMENT

OF

BRAD KIESERMAN
DEPUTY ASSOCIATE ADMINISTRATOR FOR FEDERAL INSURANCE
FEDERAL INSURANCE AND MITIGATION ADMINISTRATION
FEDERAL EMERGENCY MANAGEMENT AGENCY
U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE
THE

COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND INSURANCE
U.S. HOUSE
WASHINGTON, DC

"THE NATIONAL FLOOD INSURANCE PROGRAM: OVERSIGHT OF SUPERSTORM SANDY CLAIMS

Submitted
By

Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472

June 2, 2015

Introduction

Chairman Luetkemeyer, Ranking Member Cleaver, and Members of the Committee, I am Brad Kieserman, Deputy Associate Administrator for Federal Insurance in the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). I am grateful for the opportunity to be here today.

Why does America need a National Flood Insurance Program? Floods remain the number one natural disaster in the United States causing an average of four billion dollars a year in insurance claims between 2003 and 2012. , Millions of Americans are physically and financially vulnerable to floods. Floodplains exist throughout America—many of them in places that are economically important to our Nation. Moreover, floodplains are not the only places in America that flood. People outside of mapped high-risk flood areas file nearly 25 percent of all National Flood Insurance Program (NFIP) flood insurance claims and receive one-third of Federal disaster assistance for flooding. Yet, standard home insurance policies do not cover damage caused by rising water, and private companies that provide flood insurance are rare. That's because many private insurance companies stopped offering coverage for flooding following massive and expensive floods that plagued communities along the Mississippi River in the 1920s. In the decades that followed, Congress recognized the need to create a method for handling widespread flood damage when it occurs, passing flood insurance legislation in the 1950s and commissioning reports and studies in the 1960s. Congress created the NFIP in 1968 and its business model has remained largely unchanged since the early 1990s. The NFIP is still this Nation's first line of defense against flood damage for over 5.3 million policyholders living and working in millions of dwellings and small businesses in over 20,000 American towns and cities with $1.3 trillion of insurance coverage in force.

What we learned from Hurricane Sandy is that if the NFIP is going to remain as the first line of defense against flood damage for millions of policyholders, then we must change the way we deliver the Program.

There is a great book written on organizational change titled, "Our Iceberg is Melting,"—the authors use a fable about a penguin colony in Antarctica that lived on the same iceberg for many years. When one curious bird discovers signs that the iceberg is melting, few of the other penguins want to listen to him. They are fine the way things are and do not want to change. But, once a small group of penguins came to understand that their iceberg actually was melting, they created a sense of urgency to help others see the need for change and the importance of acting immediately.

Hurricane Sandy showed us in several ways why the 47-year old NFIP is the proverbial melting iceberg: its product is stale and not well understood by consumers; some of the vital services the Program delivers to disaster survivors have decreased in quality over time; the outdated business

model we use to deliver the Program makes increasingly little sense in the 21st Century; and many property owners required by law to purchase flood insurance fail to do so. For its policy holders, the NFIP is the first line of defense for the number one natural disaster threat to millions of people and small businesses in this country. However, if we are to prevent this iceberg from sinking into the ocean, as I think we must, then we need a new strategy to implement it and that is what I would like to talk about with you today.

What Happened in Sandy?

Over time, the NFIP became increasingly disconnected from its real customers—flood survivors. It may be difficult to see or hear the effects of that disconnect in an average loss year. However, a significant or catastrophic flood event like Sandy amplifies the Program's shortcomings and lays out the need for reforms.

In 1983, FEMA began what we call the Write Your Own (WYO) Program intending to create a cooperative undertaking between the insurance industry and the Federal Government. The WYO Program allows participating property and casualty insurance companies to write and service the Standard Flood Insurance Policy (SFIP) in their own names. The companies receive an expense allowance for policies written and claims processed while the Federal Government retains responsibility for underwriting losses. The WYO allowance today has risen to 33 percent of every premium dollar paid by our policyholders. The WYO Program operates as part of the NFIP, and is subject to its rules and regulations. When it began in the 1980s, FEMA hoped the WYO Program would increase the NFIP policy base and the geographic distribution of policies; improve service to NFIP policyholders through the infusion of insurance industry knowledge; and provide the insurance industry with direct operating experience with flood insurance in the hopes of eventual privatization.

By the time Sandy struck in 2012, FEMA's role in the NFIP had devolved to loosely coordinating a broad-reaching network of actors FEMA relied upon to implement the Program. FEMA was entrusting the WYO companies to manage the customer experience. FEMA had limited ability to manage the actual policyholder experience due to deference to WYOs. This relationship is largely memorialized in the equivalent of a contract called "the Arrangement," which is a federal regulation with the force and effect of law. The policyholder relationship was further complicated by legacy information management technology that is incapable of providing transparency on critical data, and disparate connections to the policyholder..

This broad network that FEMA relies upon includes 82 private insurance companies responsible for over four million policies between themselves, a contractor who manages an additional one million policies FEMA sells and services directly, nine "vendors" that actually service nearly 60 percent of the WYO policies, nearly 245,000 agents who sell flood insurance policies, 422,000

real estate brokers and agents, 53,000 title examiners, almost 300,000 loan officers, over 300 adjuster companies with about 6,000 certified flood adjusters, and an unknown number of structural engineers who provide consultative services to the adjuster companies. And, the most important people involved in this complex relationship, in my opinion, are our 5.3 million policyholders.

FEMA currently governs this insurance network that affects nearly six million people across the country with 80 federal employees in Washington, D.C.—not even enough to dedicate one employee to oversee each WYO.

Over the years, FEMA has permitted greater amounts of autonomy for WYOs to conduct business without a commensurate increase in the amount of oversight the agency applies to these companies. Moreover, due to business model changes throughout the insurance industry, many WYOs have delegated much of the day-to-day work of Program delivery to vendors, contractors, and sub-contractors over whom they often exercise little or no oversight. Indeed, the litigation after Sandy revealed that FEMA and some WYOs are not properly overseeing the actions of their vendors and contractors, and, in some cases, permit these vendors to manage all aspects of claims handling with little to no supervision. FEMA has some limited contact with front line insurance agents and adjusters through training but little opportunity to influence those involved in home purchase and sales (realtors, loan officers, title examiners) or WYO-contracted engineers and forensic accountants the latter of whom are responsible for tracking billions of dollars in taxpayer funds that the NFIP pays out in flood claims

The current business model affords FEMA limited interaction with the people who directly interact with our customers and deliver our Program, even though FEMA funds all costs of the Program and remains ultimately accountable for paying insurance claims fairly. In this model, FEMA is often the last to know about serious issues in the delivery of the NFIP. FEMA receives information about policies, claims, and WYO performance at a comparatively slow pace in today's world—our information systems are antiquated, ad hoc, dependent on input from WYOs and others, and routinely 90 days behind real time. We do not have the most basic actionable data about customer experience available in any systemic way. Consequently, the NFIP has no consistent or reliable method to identify systemic problems, pre-emptively identify and address claims or appeals with similar adjustment issues, or recognize patterns from warning signs like policyholder complaints, congressional correspondence, appeals, and other data.

Where has this gotten us? Two years after Sandy, the WYO companies and FEMA are now the defendants in over 2,000 court cases in which our NFIP policyholders, primarily in New York and New Jersey, contest the disallowance of flood insurance claims.

The number of cases is not out of the ordinary. Typically one to two percent of flood insurance claims result in litigation, and there were more than 144,000 total claims filed following

Hurricane Sandy. The nature of the cases is, however, highly unusual. Plaintiffs' lawyers filed more than six separate class action complaints, including complaints under the Racketeer Influenced and Corrupt Organizations (RICO) Act, alleging multiple WYO companies, their contractors, and even their attorneys conspired or knowingly facilitated a process whereby flood insurance claims were denied or underpaid. The suits also allege that the WYO companies purposely avoided oversight by FEMA, and unreasonably increased the referrals of appeals to the adjustor or engineering company. There are two broad categories of cases: (1) the first group asserts irregularities and fraud in the provision of engineering services and alleges conspiracies between engineers, adjusters, WYO companies, FEMA, and others involved in claims handling; and (2) the second group asserts contract and extra-contractual violations related to claims processing software and systemic underpayments resulting from allegedly defective software that is used almost universally to adjust flood insurance claims.

Approximately 11 percent of claims in litigation involve allegations that engineering companies altered engineering reports used to establish whether a flood caused the damage claimed. Plaintiffs have presented evidence that: 1) engineering companies pressured field engineers to find that damage was not caused by flood, resulting in undervalued claims; 2) engineering companies changed field engineer reports in a peer review process without the field engineer's knowledge and then forwarded the reports to the WYO companies and FEMA's Direct Side Agent as the work of the engineer; 3) engineering companies cut and pasted signatures and license seals resulting in falsified reports being sent to the WYO company and FEMA; and 4) engineering companies employed unlicensed engineers.

According to one Federal Magistrate Judge, one case "exposed reprehensible gamesmanship by a professional engineering company that unjustly frustrated efforts by two homeowners to get fair consideration of their claims," that he added was "concealed by design" and, "worse yet, evidence suggests that these unprincipled practices may be widespread."

FEMA is statutorily responsible for administering the NFIP and providing the necessary oversight of the WYOs to ensure everyone delivering the Program does so with integrity. Despite letters, appeals, and other data available at the time, FEMA did not promptly discover the use of unlicensed engineers or that the so-called "peer reviews" process utilized by some engineering firms may have allowed for the inappropriate manipulation of engineer findings and conclusions or the outright falsification of engineer reports. In addition, FEMA's execution of the administrative appeals process required by Federal regulations failed to uncover problems with the adjustment of claims

Against this backdrop, some NFIP policyholders have been compelled to incur additional expenses to have their claims fairly adjusted. These expenses include additional engineering costs, additional adjuster costs, and attorney fees.

What Are We Doing About the Sandy Allegations?

As you can see, Hurricane Sandy showed us in several ways that the NFIP iceberg is melting. Change management experts say that the first thing to do when you realize the iceberg is melting is to help others see the need for change and the importance of acting immediately. The next steps are to pull together a team to lead the change and to develop a vision and strategy to implement that change.

Following that approach, FEMA established a Task Force that I lead—now nearly 100 people strong including approximately 70 personnel from outside of the Federal Insurance and Mitigation Administration who bring a fresh prospective to the challenges facing the NFIP —to accomplish three discrete tasks: expeditiously resolve the litigation involving Hurricane Sandy claims; establish a process by which Sandy survivors who have not pursued litigation can promptly have their claims reviewed if they feel they were underpaid; and begin developing and executing options to reform administration of the NFIP.

With respect to the first task, FEMA initiated an unprecedented process in February 2015 to settle Hurricane Sandy claims as quickly as possible so policyholders could receive negotiated payments for their claims and not endure prolonged litigation. To expedite FEMA's ability to settle claims more quickly—particularly in the majority of these cases where a WYO, not FEMA, was the defendant—FEMA took the unprecedented step of informing the WYOs that FEMA would lead efforts to settle these cases. The Agency generally defers to the WYOs to take the lead in reaching settlement agreements. The Task Force then began reviewing hundreds of individual cases and developed a procedure to analyze plaintiffs' payment demands, review relevant case materials, verify coverage and payment information, and provide a fair settlement offer as a basis for final negotiation. Using this expedited settlement process, we aim to provide every Sandy NFIP policyholder in litigation as of February 2015 with a settlement offer by the end of August, at the latest. As of May 31, 2015, we have directed settlement offers in 25 percent of all cases in litigation and we expect to meet our goal of offers in every case by the end of August. We anticipate that many policyholders will accept those offers bringing their often-painful journeys to recovery from Sandy closer to conclusion. Because FEMA is required by law to pay for WYO legal costs, settlement also has the potential to save taxpayers millions of dollars in legal fees that would be otherwise necessary to defend protracted legal battles. In fact, in a letter filed in the U.S. District Court for the Eastern District of New York, one experienced insurance defense lawyer stated: "The current prediction of the cost of FEMA's legal bill from Hurricane Sandy is that the total defense fees from just this one event are likely to exceed the total defense costs incurred by the NFIP for all flood events for the 20 years that preceded Sandy, including Katrina." That's about $145 million in today's dollars—expedited settlement can help avoid much of those costs.

As for the second task, our customers should not have to sue us to get every dollar they are due under their insurance policy. Like other types of insurance, the NFIP does not cover everything, but it is the first line of defense against a flood. While the payouts will not make someone whole, our top priority is to ensure policyholders get what they are due under the terms of their insurance policy. As the litigation developed and revealed more and more irregularities in the claims process, we felt it was imperative to give policyholders who wanted it an opportunity to have their claimed reviewed. That's why, on May 18, 2015, FEMA opened the Hurricane Sandy Claims Review process and began mailing letters to approximately 142,000 NFIP policyholders. Establishing this review is just one step in the plan to ensure we are administering a program that is survivor-centric and helps policyholders recover from flooding in a fair, transparent, and expeditious way. As of May 26, 2015, 796 people contacted FEMA by phone or email to request a review, and 530 of those reviews are actively in progress. We believe we can conclude most reviews within 90 days of the policyholder requesting the review.

Here's a quick overview of the review process: first, it is the decision of each policyholder whether they want their claim reviewed. Many policyholders may have received everything they felt their flood insurance provider owed them. For those who think the NFIP may owe them more, we will provide a highly qualified, NFIP-certified adjuster to serve as a caseworker for the insured and guide them through the review process. An engineer not associated with firms currently under investigation will review claims with engineering reports. The caseworker will make a recommendation about a supplemental payment after a thorough review of the claim file and any new information provided. If the policyholder does not agree with the recommendation, the policyholder will have the opportunity to obtain an additional review of the file by a neutral third party, who may be a retired judge or an attorney with insurance expertise. This neutral party will make a recommendation to FEMA. FEMA will give substantial weight to the neutral party's recommendation. If the results of the review support additional payment, FEMA will direct the insurance company or its Direct Side Agent to issue payment to the policyholder. Policyholders do not need a lawyer to participate in this process and FEMA will not pay any legal fees incurred by those who request a review.

In both litigation and the Claims Review processes, we are making supplemental insurance payments outside the normal sequence of delivery for disaster assistance. That means that some people may receive insurance payments for exactly the same item or purpose they previously received a Federal disaster loan or disaster grant (which they often received because the NFIP did not cover some or all of their loss). Federal law prohibits Federal agencies from providing disaster assistance for damages or losses covered by insurance—this is called a "duplication of benefits." When that happens, the policyholder may have to repay the other disaster assistance to the original source. As a service to policyholders, when they enter the litigation or review process, FEMA coordinates with affected third parties like U.S. Department of Housing and Urban Development (HUD) and U.S. Small Business Administration (SBA) to identify potential

duplication of benefits. By identifying potential duplication of benefits early in the process and connecting policyholders with appropriate third party interests, FEMA aims to eliminate any uncertainty for the policyholder.

Reforming the NFIP

I think by now it is clear that the NFIP's "iceberg is melting." If the NFIP is going to continue to be the first line of defense against flood damage for millions of policyholders, then we must change the way we deliver the Program. I believe we must make substantial progress settling litigation and reviewing claims to recover the public trust necessary to undertake credible reform.

To complete its third and arguably most vital task of developing options to reform administration of the NFIP, the Task Force established a dedicated Reform Branch to concentrate solely on organizational change: near-term, mid-term, and long-term. We are seeking input and ideas from the full spectrum of NFIP stakeholders and interests.

While the executive branch has considerable latitude to reform administration the Program, and the judicial branch will continue to interpret the Program via its decisions, especially in the Sandy litigation, FEMA will continue to focus on reform efforts. Some of the boldest and most promising reform ideas we have heard may require legislative action and we look forward to working with our partners in Congress to improve the Program.

Some reforms simply cannot wait, and we are not going to wait to make the NFIP more survivor-centric. For example, we've already begun overhauling the NFIP's claims and appeals process, and we are moving now to align the management of litigation in a way that puts the policyholder first. FEMA is engaging with our customers, nonprofit organizations, advocacy groups, community officials, insurance companies, and Congressional staff, among others, to gain insight into the claims process and how we can improve it in the near term and in the long term. We are also increasing the training for adjusters and agents so that we can all do a better job of helping policyholders understand their coverage and its limits. As part of this effort, FEMA is working with a variety of experts to gather insight and help bring the existing process into alignment with FEMA's survivor-centric mission and approach. We will make more business process changes in the near future even as we evaluate the potential for more sweeping reform. That is why we are also undertaking a forensic accounting of how the NFIP reimburses WYOs so that we can make better decisions about future business models.

As we think about future business models and transforming the NFIP, I believe the guiding principle for every person and entity delivering the Program should be putting the policyholder first by helping people receive the assistance to which they are entitled when they most need our help. The NFIP is a government program meant to protect our citizens and foster recovery from

flood loss: it is not a private business, an insurance company, or a regulator. Our policy holders should not be surprised at the time of loss about what is and is not covered, nor should they be systemically subjected to anything but the best in customer service every time they interact with any part of the NFIP.

Conclusion

As I stated throughout this testimony, FEMA's priority is the policyholder, and ensuring they get every dollar the NFIP owes them under their policy. All that we are doing, and have been doing since Sandy helped us understand the breadth and depth of the challenges facing the Program, is aimed at that singular objective. We all have seen the signs the NFIP iceberg is melting. Still, some private sector actors involved in delivering the Program are fine with the way things are and do not want to change. It is our role, now, to help everyone understand that the iceberg is actually melting and create the sense of urgency to help others see the need for change and the importance of acting immediately. We appreciate the Committee's oversight role in this regard and look forward to our continued partnership and assistance. We are committed to getting this right.

Property Casualty Insurers
Association of America

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TESTIMONY SUBMITTED
ON BEHALF OF THE
PROPERTY CASUALTY INSURERS ASSOCIATION OF AMERICA

"THE NATIONAL FLOOD INSURANCE PROGRAM: OVERSIGHT OF SUPERSTORM SANDY CLAIMS"

BEFORE THE HOUSE FINANCIAL SERVICES COMMITTEE
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 2, 2015

8700 West Bryn Mawr Avenue, Suite 1200S, Chicago, IL 60631-3512 Telephone 847-297-7800 Facsimile 847-297-5064 www.pciaa.net
444 North Capitol Street NW, Suite 801, Washington, DC 20001 Telephone 202-639-0490

© 2015 Property Casualty Insurers Association of America

Thank you Mr. Chairman, Ranking Member and Members of the Committee for the opportunity to provide testimony on "The National Flood Insurance Program and Oversight of Superstorm Sandy Claims." The Property Casualty Insurers Association of America (PCI) is composed of almost 1,000 member companies, representing the broadest cross section of insurers of any national trade association. Our members write more than $183 billion in annual premium and 35 percent of the nation's home, auto and business insurance, reflecting the diversity and strength of the U.S. and global insurance markets. PCI members include two-thirds of the "Write-Your-Own" (WYO) insurers that partner with the Federal Emergency Management Agency (FEMA) to administer the National Flood Insurance Program (NFIP).

PCI appreciates the continuing interest of the Committee in the National Flood Insurance Program. While the program has undergone numerous changes over the past several years PCI and our members are ready to work with Congress on continuing improvements to the program to better serve consumers. This testimony provides a broad overview of the evolution of the program, private sector involvement in providing flood insurance coverage, and some of the lessons learned from the response to Superstorm Sandy.

Evolution of Flood Insurance and the Private and Public Sector Roles

Flood insurance was provided in the United States by the private sector in the late 1800's and early 1900's. After catastrophic floods in 1927 and 1928, private flood insurance became decreasingly commonplace. Flood losses were borne primarily by consumers and, over time, increasingly by the federal government in the form of disaster relief. President Truman in the 1950's proposed a flood program based on private insurance with federal reinsurance, with mandatory purchasing required for homeowners with federally insured mortgages. The program was enacted but never funded or implemented. Critics at the time were concerned about adverse selection with most homeowners unwilling to voluntarily pay risk-based rates, a high concentration of risks, and inadequate land-use planning and mitigation efforts. In 1966, President Johnson raised with Congress four possibilities for providing flood insurance – purely private sector underwriting, private underwriting with government backing, a purely government program, or a government program run with private assistance. The Administration ultimately recommended a public-private partnership for offering flood insurance, although requiring homeowners to bear their full risk costs.

In 1968, Congress created the National Flood Insurance Program that provided for a public-private partnership with communities agreeing to land-use restrictions in order to be eligible to purchase flood insurance from a risk pool (the National Flood Insurers Association) run by the private sector with oversight by the Federal Insurance Administration (FIA), then part of the Department of Housing and Urban Development (HUD). The federal government made loans to the private pool to pay claims, repaid with premiums over time, as well as providing reinsurance for catastrophic flood losses (lowering the premiums by eliminating the catastrophic risk costs). An explicit subsidy was provided for existing structures determined to be in a special flood hazard area with the expectation that those structures would disappear over time after severe weather events.

In 1977, disagreements between the private sector and the government over the authority and the financial control of the program led to the FIA exercising an existing section (Part B) of the

1968 legislation that allowed for an all federal program in which the federal government bears all of the risk while making use of insurance industry resources. This also led to a period of tension between the industry and NFIP. In 1979, President Carter created the Federal Emergency Management Agency (FEMA) and the NFIP, along with several other disaster-related agencies were brought into that Agency.

From 1977 through 1983, property owners purchased flood insurance through an agent that in turn dealt directly with the federal government. However, during these early years, there was extremely limited participation in the NFIP, despite a congressionally imposed requirement in 1973 that all properties in a flood zone with federally backed or regulated mortgage purchase flood insurance. On its own, the federal government lacked adequate marketing and distribution channels as well as sufficient claims handling and payment capacity.

In 1983, the government turned again to the private sector to help market, service and settle claims for the program. The "Write-Your-Own" (WYO) program was created to use the existing private insurance infrastructure of insurance agents, companies and claims adjusters to help increase market participation and settle claims, while the risk of flood loss was retained by the government to keep premiums low. Participation in the flood program ultimately soared, climaxing at a post-Katrina high of 5.7 million NFIP policyholders.

How the NFIP and Write Your Own (WYO) Claims Process Works

Roughly 80 of the more than 1300 active home, auto and business insurers in the U.S. have agreed to help administer the NFIP program as Write Your Own (WYO) insurers. WYO's act as a fiduciary for the federal government and taxpayers to market flood insurance and settle flood insurance claims. In return for their marketing, claims adjustment, legal fees and other administrative costs, NFIP pays WYO's a servicing fee as well as additional fees based on the amounts and volume of settled claims. Approximately 12-14 percent of flood insurance policies are written directly by the NFIP Direct Program, although even the direct program relies largely on outsourced claims adjusting and processing resources as well as private sector agents.

Decisions on federal flood insurance claims payments are made by claims adjusters. When policyholders experience a flood loss, they contact their insurance agent or WYO insurer. The insurer then assigns a flood claims adjuster, who may be an employee of the WYO, a contractor with a third party vendor or an independent contractor. The flood claims adjuster determines the amount payable on a claim based on very specific guidelines and rules established by the NFIP. Flood claims adjusters and the independent contracting firms they represent are generally compensated in proportion to the amount of the loss paid. The compensation formulas are set by the NFIP and periodically updated.

WYO insurers can be penalized for either underpayments or overpayments, and WYOs are audited regularly by the federal government under the Improper Payments Elimination and Recovery Act (IPERA) to ensure that they follow federal requirements. WYOs also have strong incentives to pay the right amount to maintain their reputation and consumer retention.

Federal compensation and settlement guidelines are periodically adjusted by Congress and the NFIP. For example, following Hurricane Katrina the Government Accountability Office (GAO) raised concerns that the existing compensation structure could result in WYOs being overcompensated for claims settlement, particularly following a catastrophic event. As a result, the claims compensation formula was refined in 2009 by reducing the portion tied to the claim value and basing a portion of the payment on the WYO insurer's NFIP premium volume. There are also specific processes in place for dissatisfied policyholders to appeal claims decisions to the NFIP. The most recent, admittedly imperfect appeals process was put in place as a result of the enactment of the Flood Insurance Reform Act of 2004.

Recent Challenges in the WYO Program

Administering and marketing the NFIP is very complex and expensive, particularly with numerous recent statutory changes to the program (many retroactive). The number of private participants in the WYO program has declined significantly in recent years, with several current participants preparing to exit the program after the recent changes. Most WYOs sell and administer a small number of NFIP policies, largely as an extra service to their consumers. The recent turmoil in the program has further increased costs and reputational concerns, weighing heavily on insurers ability to continue offering access to the NFIP as a service for their policyholder. While the NFIP's Brad Kieserman stated at the April Senate ad hoc Sandy Claims Task Force meeting that FEMA has "seen no evidence of wrongdoing by insurers who handled Sandy claims," there have been demands for WYOs to make Sandy flood litigation payments to policyholders that the DHS General Counsel determined the NFIP could not legally pay out of the National Flood Insurance Fund.

PCI and our WYO members are also concerned about the increasing polarization and uncertainty over the future of the program. Unfortunately, as WYO private participation in the program has declined and many of the recent legislative changes have been implemented, the number of households and businesses in the program has also dropped significantly. Sadly, after nine years (2006-2013) of having about 5.6 million policies in force, the NFIP's number of policies in force is now about 5.2 million and continues to fall.

Lessons Learned from Superstorm Sandy and Potential Areas of Reform

While Superstorm Sandy was a significant storm causing tragic human and physical losses, it was not significantly different from other large-scale natural disasters with regard to the litigation that ensued. Almost 99 percent of the flood loss claims (142,000+) have been settled and only 1.04 percent remain in litigation. Of course, no level of wrongdoing is acceptable and to the extent that Sandy claims differ in this regard, they should be treated differently. However, there are several lessons that the marketplace learned or relearned in the aftermath of Sandy that Congress might revisit.

Governmental Coordination

In the immediate aftermath of a natural catastrophe it is critical for local, state, and federal officials to coordinate their efforts to get basic services up and running as quickly as possible, to get people back to their homes, and to get businesses to begin remediation and rebuilding. Insurers need

to be at the table during pre- and post-disaster emergency planning and coordination to ensure that smooth claims adjustment can be a part of the catastrophe response planning. It is also essential to the rebuilding process that local law enforcement and government officials allow insurers and insurance claims adjusters into damaged areas as soon it is safe – at least as soon as property owners are provided access. Following Superstorm Sandy's landfall, despite being granted authority by the states, insurance personnel access to affected areas was denied.

Available Claims Adjusters

A unique aspect of Superstorm Sandy was the lack of locally licensed flood insurance adjusters willing to adjudicate Sandy losses, which delayed the claims settlement and the rebuilding process. Most flood insurance adjusters are located in areas that frequently flood, while Superstorm Sandy hit regions that flood less frequently. Many states implement reciprocal recognition of claims adjusters from other states to help, and the state insurance department grant such access if the proper credentials are provided. However, it can often be difficult in the middle of a catastrophic event with an unusual number of claims to process the necessary paperwork in a timely manner. PCI supports federal legislation to require more reciprocal claims adjuster recognition.

Engineering Reports

Another unique feature of Sandy was the need for more engineering reports due to the prevalence of below ground building substructures. There are a limited number of engineering firms. With both non-flood and flood insurers requiring engineering services after any catastrophe, engineering firms necessarily encounter challenges managing both the volume of work as well as the short time frames for adjusting claims due to media and public official pressures. Engineering on-site inspectors are not always familiar with the particular requirements and guidelines of the NFIP. One of the engineering subcontractors, used by both the NFIP Direct Program and some WYOs has been accused of altering the reports of one of its on-site inspectors. Subsequent to these allegations, the NFIP has worked to facilitate remaining open claims and allow unsatisfied claimants to have their claims reviewed by NFIP staff.

Balancing the Pendulum of Overpayment and Underpayment Concerns

Congress and the NFIP have periodically revisited the flood program's guidelines to balance concerns about the risks of overpayment and underpayment. After hurricane Katrina, the Department of Homeland Security's Office of Inspector General released a report considering allegations that insurers were overpaying consumers. While the Government Accountability Office (GAO) in a subsequent investigation concluded that they found no evidence of inappropriate attribution of losses, FEMA reviewed the settlement guidelines. The criticisms after Sandy have been of underpayment rather than overpayment. However, PCI and our WYO members welcome a thorough review of the claims settlement process to ensure the optimal fiduciary balance between protecting policyholders and taxpayers.

Mitigation

Preparation is a key factor in minimizing financial loss after a natural catastrophe. Strong,

uniform statewide building codes that are regularly updated play a significant role in reducing the risk of injury or death to homeowners during a natural catastrophe. Structures built or retrofitted to comply with the most recent edition of the *International Building Code*, and other recognized building standards, incur less property damage during a significant weather event. Less property damage following an event reduces the need for federal disaster aid and can help expedite a community's recovery after a natural catastrophe. PCI promotes strong building codes and responsible land use policies, which are crucial for all stakeholders, to promote public safety and to be as prepared as possible for the next hurricane, tornado, or flood disaster. Updating flood maps immediately following such an event may be critical to ensuring that homes and businesses being rebuilt meet the appropriate flood elevation criteria.

Private Sector Participation

PCI also supports increasing consumer choice in flood insurance. In particular, PCI supports legislation facilitating a consumer's choice to choose private flood insurance that can be accepted as conforming by mortgage lenders. Also, PCI notes that the recent Biggert-Waters and HFIAA flood reform legislation authorizes FEMA to obtain reinsurance from the private market, although this has not yet been pursued. PCI believes that there are additional challenges and opportunities in this area and looks forward to working with Congress in reviewing opportunities for expanding coverage and protections for consumers.

Program Growth and Risk Spread

A number of Sandy losses were not covered by insurance, often because homeowners were not aware of the risks or the potential gaps in their existing coverage, or because they were simply uninsured or underinsured. There are additional opportunities for the government and private sector to educate consumers about flood insurance and reduce future gaps and consumer vulnerabilities.

Ongoing Discussions of NFIP Reforms

As we look towards the reauthorization of the NFIP program in 2017 and Congress considers short and long-term changes to it we have already started to discuss such reforms. PCI hosted the 2015 National Flood Insurance Conference in mid-May that included all the stakeholders in this program. That conference agenda included potential program improvements, other approaches to address the risk, technical issues and challenges to private sector participation and risk bearing. PCI will continue these discussions with stakeholders and would welcome further conversations on improvements with regard to oversight and operation of the NFIP with the Committee.

Conclusion

The flood insurance program protects millions of American businesses and families from catastrophic flood risk. PCI members and our WYO companies appreciate the opportunity to service the federal government and consumers and welcome a discussion with the Committee about how to improve the claims process and shape the program in the future.

Question#:	1
Topic:	engineering reports
Hearing:	The National Flood Insurance Program: Oversight of Superstorm Sandy Claims
Primary:	The Honorable Steve Pearce
Committee:	FINANCIAL SERVICES (HOUSE)

Question: Upon learning of the widespread practice of falsifying engineering reports, what steps did FEMA take to intervene and ensure the validity of the claims and engineering reports moving forward?

Specifically relating to the engineering reports, does FEMA have a process in place to evaluate the validity of the reports moving forward?

If so, what does this process include, and how will it increase oversight and accountability in the program?

Response: FEMA implemented changes to our Special Allocated Loss Adjustment Expenses (SALAE) reimbursement process to increase oversight and accountability. FEMA now reviews all engineering costs, rather than at a $2,500 threshold. Additionally, we are requiring insurance companies to certify they are using licensed engineers. Any use of a non-licensed engineer will be reported to the state Attorney General, who has jurisdiction over professional accreditations and regulations. To ensure that engineering reports in the current Texas and Oklahoma flooding events are accurate we are reviewing all engineering reports.

FEMA would also like to add it has not yet determined whether there was "widespread practice of falsifying engineering reports." FEMA, however, identified several questionable practices in engineering reports and irregular billing problems. FEMA referred all allegations of fraud and subpar/questionable engineering practices, and irregular bill to DHS OIG for investigation.

Question#:	2
Topic:	fraud risk
Hearing:	The National Flood Insurance Program: Oversight of Superstorm Sandy Claims
Primary:	The Honorable Steve Pearce
Committee:	FINANCIAL SERVICES (HOUSE)

Question: During Mr. Kieserman's testimony he stated FEMA was closely watching the ongoing emergency situation in Texas and working to reduce fraud risk to the greatest extent possible. Could you please elaborate on this answer?

Response: FEMA established a call center to help policyholders with any flood insurance issues and provide immediate feedback on the claims process. This early identification of problems, combined with a peer review of engineering reports for accuracy, will help FEMA to reduce risks of fraud in claims settlements. FEMA reiterated its commitment to a survivor-centric approach that puts the needs of the policyholder first and reminded the WYOs of their oversight responsibilities in the adjustment of NFIP claims. In addition, FEMA granted an additional 180-day extension to allow policyholders adequate time to present their claims. FEMA will make advance payments for contents coverage and allow policyholders to provide photographs and samples of damaged properties to allow policyholders to comply with community mandated debris removal.

Question: Does this include mandatory audits of all vendors who participate in the Texas market?

Response: FEMA will examine claims from the Texas flooding through a random sample of claims selected for reinspections, the Operation Reviews of individual WYO companies and other established audit procedures such as the Biennial Audits and the DHS Audit and Improper Payment Act claims reviews, which are performed by independent auditors. If FEMA or its auditors identify irregularities, we will follow-up immediately.

Question: Does this include a review of every engineering report submitted by the WYO for payment?

Response: Yes. FEMA is reviewing every claim with an engineering report from the Texas flooding.

Question: Does this include an automatic appeals process for policyholders in the area?

Response: Yes, FEMA established a hotline for policyholders to report any problems they are having with the claims adjustment process. The number is 800-621-FEMA.

Question#:	3
Topic:	WYO program
Hearing:	The National Flood Insurance Program: Oversight of Superstorm Sandy Claims
Primary:	The Honorable Steve Pearce
Committee:	FINANCIAL SERVICES (HOUSE)

Question: What is the current audit process for the WYO program?

Response: As a part of the Write Your Own (WYO) Program, all WYO Companies must adhere to the standards and procedures of the WYO Financial Control Plan to ensure financial and statistical control over their flood insurance activities. To make certain that WYO Companies perform at acceptable levels, FEMA oversees company activities via claims and underwriting operations reviews, requiring and reviewing biennial audits, monitoring overall company performance, and, as needed, referring companies with unacceptable performance to the WYO Standards Committee.

Every year FEMA schedules the required Financial Control monitoring activities for each WYO Company for that year. Claims and Underwriting Operation reviews are conducted for each WYO Company at least once every three years. Depending on the company size, the review may be combined with other companies that use the same vendor. If the results of a prior review were Unsatisfactory, FEMA schedules a follow-up review to ensure the appropriate corrective actions were implemented. The follow-up review is scheduled for one year after the initial review. WYO Companies must submit a Biennial Financial Audit performed by a CPA firm every other year.

Question: Is it a quota, completely random, or is it honestly just completely lacking?

Response: FEMA's regulations (44 C.F.R. 62.23(j)(2)) require a triennial review of a WYO companies flood insurance claims, underwriting, Customer service, marketing, and litigation activities. Specific for claims triennial review, FEMA's Claims Operation Review reviews up to 100 randomly selected claim files of the WYO Company. FEMA will review no fewer than 50 claim files, but low claim volume companies may require special attention. If a WYO company uses a vendor, it is assigned to one of four categories, based on its number of policies in force. Each Category A WYO company (100,000 or more policies) receives a separate operation review on a triennial cycle. Companies with less than 100,000 policies may be combined with other companies with the same flood vendor. All Category B companies (50,000 to 99,999 policies) are grouped together by vendor and 100 claims files are randomly selected from the pool of companies. Similarly, all Category C (25,000 to 49,999 policies) and Category D companies (less than 25,000 policies) are grouped together by vendor with 100 files selected randomly from each grouping.

The underwriting policy samples are selected from within the company categories using a computerized random number generator. Selected files will include new business

Question#:	3
Topic:	WYO program
Hearing:	The National Flood Insurance Program: Oversight of Superstorm Sandy Claims
Primary:	The Honorable Steve Pearce
Committee:	FINANCIAL SERVICES (HOUSE)

policies, endorsements and cancellations written or processed in the past 12 months. Like the Claims Operation Review, a Category A WYO Company (100,000 or more policies) has a review completed for that specific company. Category B, C, and D WYO Companies may be combined with other companies with the same flood vendor. Generally, the number of files reviewed at the WYO Company or vendor is determined by the new business written in the past year and requires the following sample sizes: less than 2,500 new business policies, 50 policies sampled; 2,500-4,999 new business policies, 65 policies sampled; 5,000 to 9,999 new business policies, 75 policies sampled; and, 10,000 new business policies or more 100 policies sampled.

The CPA firms performing the biennial audits determine the sample sizes for their audits.

Question: How has FEMA corrected this in response to the Sandy failures?

Response: FEMA is examining claims from the all Sandy affected states at the policyholders' request. FEMA is reviewing every claim from the Texas flooding with an engineering report.

Question: Have these practices been put into place for Texas?

Response: We established a hotline for policyholders to report any problems they are having with the claims adjustment process. The number is 800-621-FEMA. FEMA reiterated its commitment to a survivor-centric approach that puts the needs of the policyholder first and reminded the WYOs of their oversight responsibilities in the adjustment of NFIP claims. In addition, FEMA granted an additional 180-day extension to allow policyholders adequate time to present their claims. FEMA will make advance payments for contents coverage and allow policyholders to provide photographs and samples of damaged properties to allow policyholders to comply with community mandated debris removal.

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