

Inspector General David Montoya
Department of Housing & Urban Development
451 Seventh Street, SW
Mail Stop G
Washington, DC 20410

January 15, 2014

Dear General Montoya:

We are writing on behalf of Public Employees for Environmental Responsibility (PEER) to request that you expand the scope of pending investigations and/or initiate new investigations regarding the State of New Jersey's compliance with various federal policy, grant administration, procurement, and regulatory requirements regarding the expenditure of Sandy relief and recovery funds.

We understand through media reports that your office is already reviewing the propriety of the \$4.7 million media contract that produced the “Stronger Than the Storm” TV ad campaign featuring Gov. Christie and his family pursuant to a request from U.S. Representative Frank Pallone. While we appreciate the gravity of the issues raised in Rep. Pallone’s request, we believe that you should expand this review to examine the noncompliance by the State of New Jersey with key federal guidelines and regulations which go to the heart of the purpose of the post-Hurricane Sandy restoration effort.

Moreover, the scope and size of the matters summarized below have had much larger impact on reconstruction fund availability. The specific program areas of investigatory inquiry we urge your office to undertake include the following:

1. Resilience and Climate Change

The new rules issued by the U.S. Department of Housing & Urban Development (HUD) govern the distribution of \$5.1 billion in the second phase (“Round 2”) of federal reconstruction aid of which \$1.4 billion has been allocated to New Jersey. To qualify, however, all recipients must detail –

- A “science-based risk analysis” addressing sea level rise and other effects of climate change;
- How projects match President Obama’s Climate Action Plan, unveiled last August; and
- The “transparent and inclusive process” leading to project selection.

We see no evidence that New Jersey's Sandy recovery public policies, plans, or applicable land use and environmental regulations would comply with these new HUD requirements. To the contrary, New Jersey is one of the few states without a climate adaptation plan. The state has even gone so far as to censor discussion of climate-related hazards from state coastal management reports.

Moreover, rather than a “transparent and inclusive” approval process, Gov. Christie has empowered a “Sandy Recovery Czar” to make unilateral decisions that are not even reviewed by the Legislature. The only public involvement New Jersey allows is a seven-day written comment period.

We believe that even cursory scrutiny will confirm that these aspects of the State’s performance do not conform with federal requirements.

2. State Regulatory oversight of reconstruction of public infrastructure

The State Department of Environmental Protection (DEP) has federally delegated or funded Coastal Zone Management, Clean Water Act, Flood Hazard, and land use planning and regulatory oversight in the coastal zone impacted by Sandy.

However, just days after Sandy struck, on November 3, 2012, DEP Commissioner Bob Martin issued an Administrative Order 2012-13 that deregulates reconstruction of public infrastructure, see: <http://www.nj.gov/dep/special/hurricane-sandy/docs/ao20121105.pdf>

We are concerned that this lack of state regulatory oversight violates various federal requirements established in federally delegated or funded programs, including compliance requirements for Sandy recovery funds.

3. State Regulatory oversight of reconstruction and redevelopment

The DEP also has regulatory oversight powers over private reconstruction and redevelopment, including for purposes of satisfying federally delegated and/or funded environmental laws and programs, and/or the compliance conditions of Sandy recovery funding.

However, DEP has not modified or strengthened State coastal development and flood hazard regulations to address sea level rise, storm surge, and climate impacts.

Additionally, the New Jersey Coastal Area Facility Review Act (CAFRA) exempts storm damaged reconstruction from DEP regulatory oversight. Similar to our concerns regarding reconstruction of public infrastructure, this loophole in state law raises federal law compliance issues.

4. Use of Sandy Recovery funds for Seaside Park boardwalk fire

Governor Christie authorized the use of up to \$15 million in Sandy recovery funds for reconstruction of properties damaged in the Seaside Park boardwalk fire, allegedly on the basis that:

“The fire was found to be caused in major part by Sandy . . . they called it a contributing factor in the report.”

--Gov. Christie when asked by reporters about the funding issue after a bill-signing ceremony in the State House. (Bergen Record, 9/18/13)

We are concerned that:

- a) Expenditure of Sandy recovery funds may not have been authorized for this purpose;
- b) The fire may have not been Sandy related; and
- c) The lack of state DEP regulatory oversight of the boardwalk reconstruction may have been a contributing factor in failure to detect the electrical wiring failure that caused the fire.

If validated, any one of these overlapping concerns could force the State to reimburse these funds.

5. Failure to timely disburse Sandy Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) grant funds

According to numerous media reports, the State of New Jersey has been extremely slow in disbursing the RREM grant funds. State officials, however, have offered no coherent explanation for these delays. Nor have they offered a firm timetable for disbursement of this assistance.

The victims of Sandy, federal taxpayers, and the residents of New Jersey deserve a full explanation of this completely unacceptable delay.

6. Allocation of recovery monies to low and moderate income households - potential disparate racial and ethnic impacts

Persistent questions have been raised about whether low-income and minority New Jersey residents were getting a fair share of the \$1.8 billion in federal aid committed to the state under the Hurricane Sandy recovery plan. According to the Fair Share Housing center, only 37 percent of \$10,000 in resettlement grants for families severely impacted by Sandy has been allocated to low and moderate income households, far below the 60 percent pledged by Gov. Christie in his request for these federal funds.

Further, an analysis of preliminary data by *The Star-Ledger* published in its December 22, 2013 edition found that much of the \$4.5 million from programs aimed at helping renters find affordable housing awarded to date did not go to the counties hardest hit by Sandy. Instead, more than \$2 million of it went to landlords in Essex County, which was far less affected than towns along the Jersey Shore.

We would also urge you to investigate the allocation of funds and any disparate adverse impacts on low income, renters, or racial or ethnic groups.

In addition to these enumerated controversies, we are concerned that the reviews taking place under state authority may be compromised by politics. According to the New Jersey Comptroller's website, the law firm of Wolff & Samson has been selected as a contractor to conduct various auditing and program oversight functions.

One of the named partners of that firm, David Samson, served as Gov. Christie's campaign counsel and as the head of his gubernatorial transition. In addition, Mr. Samson is Gov. Christie's appointee to the Board of Commissioners of the Port Authority of New York and New Jersey. Moreover, the principal in Samson's firm overseeing audit management of the state Department of Community Affairs is Lori Grifa, Christie's director of that same agency from 2010 to 2012.

The political connections and revolving door dynamics raise issues of the independence and objectivity of state contract auditors. These dynamics further argue for the need of a thorough independent audit of these expenditures.

We appreciate your prompt attention to these matters,

Sincerely,

Jeff Ruch
PEER Executive Director

Bill Wolfe
New Jersey PEER Director