

Congress of the United States
Washington, DC 20515

November 18, 2022

The Honorable Gene L. Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Comptroller General Dodaro:

We are writing to request that the Government Accountability Office (GAO) conduct a study to evaluate efforts by the Environmental Protection Agency (EPA) and the Federal Emergency Management Agency (FEMA) to identify and assist water and wastewater utilities that are vulnerable to shutdown from natural and other disasters, such as terrorist attacks and chemical and industrial accidents.

The Jackson, Mississippi, Water Crisis

On August 29, 2022, torrential rain in the Jackson, Mississippi, area caused floodwater to seep into the O.B. Curtis Water Treatment Plant, leading to the failure of the backup pumps upon which the plant relied.¹ The resulting system-wide loss of water pressure left Jackson residents without reliable access to safe drinking water for more than two weeks. Approximately 180,000 people living in the affected area were forced to rely on bottled water, costing some residents as much as \$200 per month.² Others, unable to reach water distribution sites or boil tap water, were left with no choice but to drink untreated water.³ This water was not only unsafe to drink but may have been dangerous even for bathing, with some residents reporting that they experienced allergic reactions after bathing in untreated water.⁴

On August 30, 2022, President Biden declared the Jackson water crisis a federal emergency and ordered federal assistance to supplement Mississippi's response.⁵ Full water service was not

¹ *Jackson Water Crisis Will Cost Billions to Fix, Mayor Says*, Engineering News-Record (Aug. 31, 2022) (online at www.enr.com/articles/54735-jackson-water-crisis-will-cost-billions-to-fix-mayor-says).

² *"Do Not Drink the Water": Jackson Water System Failing For 180,000 People*, Mississippi Free Press (Aug. 29, 2022) (online at www.mississippifreepress.org/26768/do-not-drink-the-water-jackson-water-system-failing-for-180000-people); *Living in a City with No Water: "This Is Unbearable"*, Washington Post (Sept. 3, 2022) (online at www.washingtonpost.com/nation/2022/09/03/jackson-mississippi-water-crisis/).

³ *Jackson Water Crisis: A Legacy Of Environmental Racism?*, BBC (Sept. 4, 2022) (online at www.bbc.com/news/world-us-canada-62783900).

⁴ *Living in a City with No Water: "This Is Unbearable"*, Washington Post (Sept. 3, 2022) (online at www.washingtonpost.com/nation/2022/09/03/jackson-mississippi-water-crisis/).

⁵ *Biden Declares Emergency over Mississippi Water Crisis*, Reuters (Aug. 30, 2022) (online at www.reuters.com/world/us/thousands-mississippis-capital-without-water-after-treatment-plant-fails-2022-08-30/).

restored until September 15—approximately two weeks later. Today, water plant infrastructure in the city remains precarious, and risks to Jackson’s residents persist.⁶

Jackson has experienced problems with its water utility for years, stemming from the lack of investment in its infrastructure and inadequate staffing. Although Jackson is the state capital and the most populous city in Mississippi, its high percentage of low-income residents means the city is financially strained, limiting its ability to allocate resources to public services—including water services.⁷ Due to a steady exodus of white and affluent residents, the city, which is 82.5% Black, has a reduced tax base to repair aging infrastructure. State-related roadblocks—which continue to this day—have left Jackson without critical federal funding. Many neighboring communities have installed new water systems, but pipes under Jackson have not been properly maintained since the 1950s.⁸

Climate change is expected to increase the likelihood and extent of damage caused by such natural disasters nationwide. Scientists have concluded that the rise in coastal sea levels and frequent flooding in Mississippi—which contributed to the water crisis in Jackson—are a direct result of climate change.⁹ These issues are certain to worsen, and experts predict that extreme weather will become more common in the region¹⁰ Indeed, in 2021, multiple winter storms hit Jackson and left the water system out of commission for a month.¹¹ Residents report they have not gone more than a month for over two years without a “boil water” notice in effect.¹² The Jackson

⁶ *Boil-water Notice Lifted for Jackson, Mississippi, After More than 40 Days*, CNN (Sept. 16, 2022) (online at www.cnn.com/2022/09/15/us/jackson-mississippi-boil-water-lifted/index.html); *Mississippi Lifts Boil Advisory in Jackson, but Its Water System Remains Troubled*, New York Times (Sept. 16, 2022) (online at www.nytimes.com/2022/09/16/us/mississippi-boil-water-advisory.html).

⁷ *In Jackson, Miss., a Water Crisis Has Revealed the Racial Costs of Legacy Infrastructure*, Brookings (Mar. 29, 2021) (online at www.brookings.edu/blog/the-avenue/2021/03/26/in-jackson-miss-a-water-crisis-has-revealed-the-racial-costs-of-legacy-infrastructure/).

⁸ *White Then Black Residents Abandoned Jackson, Propelling Its Water Crisis*, Washington Post (Sept. 4, 2022) (online at www.washingtonpost.com/nation/2022/09/04/jackson-water-crisis/); *Jackson’s Water Emergency Exposes a Dilemma for Biden*, Politico (Sept. 3, 2022) (online at www.politico.com/news/2022/09/03/biden-jackson-federal-cash-00054562); Mississippi Center For Investigative Reporting, *Fixing Jackson’s Infrastructure a Matter of Politics, Access to Resources for Beleaguered City* (Jan. 14, 2022) (online at www.mississippicir.org/news/fixing-jacksons-infrastructure-a-matter-of-politics-access-to-resources-for-beleaguered-city).

⁹ *Climate Change Impact on Mississippi: What Mississippians Can Expect?*, Clarion Ledger (Sept. 17, 2022) (online at www.clarionledger.com/story/news/2022/09/18/climate-change-what-mississippians-can-expect/69487206007/); The Climate Reality Project, *How Does the Climate Crisis Impact Alabama and Mississippi* (Apr. 5, 2021) (online at www.climateRealityProject.org/blog/how-does-climate-crisis-impact-alabama-and-mississippi).

¹⁰ *Id.*

¹¹ *Living in a City with No Water: “This Is Unbearable”*, Washington Post (Sept. 3, 2022) (online at www.washingtonpost.com/nation/2022/09/03/jackson-mississippi-water-crisis/); *Jackson’s Water Crisis – A Stark Warning About Extreme Weather, Infrastructure, And Justice*, Forbes (Sept. 2, 2022) (online at www.forbes.com/sites/marshallshepherd/2022/09/02/jacksons-water-crisis-a-stark-warning-about-extreme-weather-infrastructure-and-justice/?sh=15882d846c09).

¹² *Jackson Water Crisis: A Legacy of Environmental Racism?*, BBC (Sept. 4, 2022) (online at www.bbc.com/news/world-us-canada-62783900).

water crisis was a disaster waiting to happen, and it will not be resolved unless we address the confluence of climate change and generational disinvestment in majority-Black cities.

The Need to Enhance Water and Wastewater Utilities Nationwide

Water and wastewater (sewer) utilities across the United States have substantial costs to maintain, upgrade, or replace their infrastructure—according to EPA, the total cost is expected to be more than \$600 billion over the next 20 years.¹³ GAO reported in 2016 on the challenges faced by cities, like Jackson, whose declining populations are impacting the ability to maintain their water and wastewater infrastructure. Water and wastewater maintenance, operations, and replacement costs are usually paid for with revenues raised from rates charged to customers. Decreasing numbers of customers generally decreases utility revenues, increasing the costs for remaining ratepayers or leading to insufficient funding to cover costs.

In 2020, GAO found that EPA could do more to help drinking water and wastewater utilities, most of which are publicly owned, to prepare for climate change and its effects, such as heavy flooding, that can destroy water utility facilities. GAO has included several of these recommendations in its High-Risk List.¹⁴ For example, GAO reported that Iowa City Public Works used financial assistance from the Department of Housing and Urban Development and FEMA’s Public Assistance grant program to increase its resilience to floods by relocating a flood-prone wastewater treatment facility after flooding in 2008.

The Department of Homeland Security (DHS), through the Cybersecurity and Infrastructure Security Agency (CISA), is responsible for leading federal efforts to secure critical infrastructure across all sectors, including water and wastewater, in coordination with Sector Risk Management Agencies (SRMAs). As part of its cross-sector coordination role, CISA provides free tools, resources, and assistance to critical infrastructure owners and operators to help them secure their physical and digital infrastructure. Earlier this year, EPA, as the SRMA for the water and wastewater systems sector, announced the Industrial Control Systems Cybersecurity Initiative – Water and Wastewater Sector Action Plan to improve cybersecurity measures across the sector.

EPA works in partnership with states to help ensure drinking water is safe and to protect the quality of the nation’s rivers, streams, lakes, and other water bodies. EPA provides funding to help water and wastewater utilities build and maintain their infrastructure. The Infrastructure Investment and Jobs Act (IIJA), enacted in 2021, provided \$23 billion over six years for the two primary EPA programs to improve drinking water and wastewater infrastructure—the clean water and drinking water state revolving (SRF) programs.

Ensuring Equity in Infrastructure Investments

¹³ Environmental Protection Agency, *Water Infrastructure and Resiliency Finance Center* (online at www.epa.gov/waterfinancecenter/about-water-infrastructure-and-resiliency-finance-center) (accessed Nov. 16, 2022).

¹⁴ Government Accountability Office, *High-Risk Series: Dedicated Leadership Needed to Address Limited Progress in Most High-Risk Areas* (Mar. 2, 2021) (GAO-21-119SP) (online at <https://files.gao.gov/reports/GAO-21-119SP/index.html>).

At the same time, the Biden Administration is directing attention and increased funding to low-income and minority communities. On his first day in office, President Biden signed Executive Order 13985, directing the Office of Management and Budget (OMB) and the White House Domestic Policy Council to work with federal agencies to remove barriers to equal opportunity and programmatic benefits for people of color and other underserved communities. OMB was also instructed to select high-priority programs to undergo racial equity assessments.¹⁵ Also in January 2021, President Biden signed Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” which set forth the Administration’s policy to secure environmental justice and spur economic opportunity. Executive Order 14008 established a goal of delivering to disadvantaged communities 40% of the overall benefits of certain federal investments, including the development of critical water infrastructure. This initiative, known as the Justice40 Initiative, includes EPA and FEMA programs.¹⁶ In fact, the White House has named FEMA’s Building Resilient Infrastructure and Communities and Flood Mitigation Assistance programs (\$4.5 billion in IIJA) and EPA’s clean water and drinking water SRF programs as part of the Justice40 pilot program unveiled in July 2021.¹⁷

In addition to its obligations under the Justice40 Initiative, FEMA has recognized long-standing equity issues.¹⁸ FEMA’s National Advisory Council (NAC) reported to the Administrator in November 2020 that FEMA is in violation of civil rights laws and the Robert T. Stafford Disaster Relief and Emergency Act because it fails to distribute funding resources “in an equitable and impartial manner, without discrimination on the ground of race, color, religion, [national origin], sex, age, disability, English proficiency, or economic status.”¹⁹ A Center for American Progress (CAP) report on “How FEMA Can Prioritize Equity in Disaster Recovery Assistance” found that, following a significant disaster, “Black survivors see their wealth decrease by \$27,000 on average while white survivors see their wealth increase by \$126,000 on average.” The pathway to equitable outcomes, CAP found, requires that FEMA shift from a rigid cost-benefit analysis that advantages wealthy, disproportionately white communities, to one that considers “needs-based awards,” additional resources for “county and municipal projects in low-income communities of color,” and

¹⁵ Exec. Order No. 13985, 86 Fed. Reg. 7009 (Jan. 20, 2021).

¹⁶ Exec. Order No. 14008, 86 Fed. Reg. 7619 (Jan. 27, 2021).

¹⁷ Memorandum from Shalanda D. Young, Acting Director, Office of Management and Budget; Brenda Mallory, Chair of The Council on Environmental Quality; and Gina McCarthy, National Climate Advisor; Executive Office of the President, Interim Implementation Guidance for the Justice40 Initiative (July 20, 2021) (online at www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf).

¹⁸ Federal Emergency Management Agency, *FEMA Equity Action Plan* (Feb. 23, 2022) (online at www.fema.gov/sites/default/files/documents/fema_equity-action-plan.pdf); Federal Emergency Management Agency, *Where Equity Fits into the BRIC/FMA Program Design and Community Resilience* (online at www.fema.gov/event/where-equity-fits-bricfma-program-design-and-community-resilience) (accessed Nov. 3, 2022); Federal Emergency Management Agency, *2022-2026 FEMA Strategic Action Plan: Building the FEMA Our Nation Needs and Deserves* (Dec. 21, 2021) (online at www.fema.gov/sites/default/files/documents/fema_2022-2026-strategic-plan.pdf).

¹⁹ FEMA National Advisory Council, *National Advisory Council Report to the FEMA Administrator* (Nov. 2020) (online at www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf).

an “equity standard”—proposed by NAC—that considers how grant decisions may exacerbate the racial wealth gap.²⁰

The Committees’ Requests

It is important that the EPA and DHS make progress on their water sector efforts so that all people, regardless of race, color, national origin, or income, enjoy the same degree of protection from environmental and health hazards.

We are interested in understanding how EPA and DHS are identifying and prioritizing water and wastewater utilities to ensure that they are meeting their goals of providing clean and safe water and resilient communities. Of particular interest, we would like to know how EPA and DHS are identifying and prioritizing utilities to receive assistance from their funding programs. Questions to address in the study include:

1. To what extent do EPA, FEMA, and CISA work together to identify and prioritize funding for water and wastewater utilities that are vulnerable to service disruptions?
2. How are EPA and FEMA implementing Executive Order 14008 Justice40 provisions and draft guidance as it relates to water and wastewater funding they provide?
3. How are EPA and FEMA incorporating racial equity into relevant programs, pursuant to Executive Order 13985, and how may this affect water and wastewater funding they provide?
4. How do EPA, FEMA, and CISA provide information to state, local, tribal, and territorial governments about federal funds and tools to distribute funds?

Thank you for your assistance in this important matter.

Sincerely,



Bennie G. Thompson
Chairman
Committee on Homeland Security



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform

²⁰ Center for American Progress, *How FEMA Can Prioritize Equity in Disaster Recovery Assistance* (July 19, 2022) (online at www.americanprogress.org/article/how-fema-can-prioritize-equity-in-disaster-recovery-assistance/); FEMA National Advisory Council, *National Advisory Council Report to the FEMA Administrator* (Nov. 2020) (online at www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf).

The Honorable Gene L. Dodaro

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cc: The Honorable John Katko, Ranking Member
Committee on Homeland Security

The Honorable James Comer, Ranking Member
Committee on Oversight and Reform