

**POST-KATRINA: WHAT IT TAKES TO  
CUT THE BUREAUCRACY  
AND ASSURE A MORE RAPID  
RESPONSE AFTER A  
CATASTROPHIC DISASTER**

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(111-53)

**HEARING**

BEFORE THE

SUBCOMMITTEE ON

ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND  
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON

TRANSPORTATION AND

INFRASTRUCTURE

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**  
Washington, DC 20515

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July 23, 2009

**SUMMARY OF SUBJECT MATTER**

**TO:** Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

**FROM:** Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff

**SUBJECT:** Hearing on "Post-Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid Response After a Catastrophic Disaster"

**PURPOSE OF THE HEARING**

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Monday, July 27, 2009, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to receive testimony on defining a catastrophic disaster, the role of the Federal Government after a catastrophic disaster, and whether additional authority is needed to address the response and recovery from a catastrophic disaster.

**BACKGROUND**

The Federal Emergency Management Agency (FEMA) is the Federal Government's lead agency for preparing for, mitigating, responding to, and recovering from disasters and emergencies from all hazards, whether natural or man-made. FEMA's primary authority in carrying out these functions is the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)<sup>1</sup>.

The Stafford Act provides for two categories or "levels" of incidents: "major disasters" and "emergencies". A "major disaster" is defined in section 102(2) of the Stafford Act<sup>2</sup> as:

<sup>1</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (2009).  
<sup>2</sup> 42 U.S.C. § 5122 (2009).

Any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

An “emergency” is defined in section 102(1) of the Stafford Act<sup>3</sup> as:

Any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

The primary distinction between a major disaster and an emergency is that emergencies are primarily “lesser events”, limited in cost<sup>4</sup>, or can be declared to “lessen or avert the threat of a catastrophe” (such as funding activities to protect citizens and communities prior to the landfall of a hurricane). For the most part, disasters of a catastrophic magnitude would also meet the definition of a major disaster,<sup>5</sup> and therefore any additional assistance for catastrophic events should build off of what is available for a major disaster.

#### **I. Assistance Available in a Major Disaster Under the Stafford Act**

FEMA’s major Stafford Act programs for disaster response and recovery in the aftermath of a major disasters are the Public Assistance Program and the Individual Assistance Program. The Public Assistance Program, authorized primarily by sections 403, 406, and 407 of the Stafford Act<sup>6</sup>, reimburses State and local emergency response costs and provides grants to State and local governments, as well as certain private non-profits to rebuild facilities. The Public Assistance Program generally does not provide direct services to citizens.

The Individual Assistance program, also known as the Individuals and Households Program, is primarily authorized by section 408 of the Stafford Act.<sup>7</sup> The program provides assistance to families and individuals impacted by disasters, including housing assistance. Housing assistance includes money for repair, rental assistance, or “direct assistance”, such as the provision of trailers

<sup>3</sup> *Id.*

<sup>4</sup> Under section 503(b) of the Stafford Act (42 U.S.C. § 5193) emergencies are generally limited to \$5 million unless the President reports to Congress. The \$5 million limitation is often exceeded.

<sup>5</sup> Since the definition of emergency is all inclusive (i.e., “any occasion or instance”), it is broader than the definition for a major disaster, and therefore theoretically there are events that could possibly have catastrophic consequences and not meet the definition of a major disaster. The possibility is remote. For example, all the terrorist events for which FEMA used its Stafford Act authority met the definition of a major disaster. Even if an event did not meet the definition of a major disaster, FEMA’s emergency authorities would likely provide adequate authority for weeks, if not months in the event of a catastrophic incident, while the President and Congress could decide on any additional authority for that event.

<sup>6</sup> 42 U.S.C. §§ 5170b, 5172 and 5173.

<sup>7</sup> 42 U.S.C. § 5174.

and mobile homes. This section also authorizes the “other needs program”, which provides grants to mostly low-income families for loss of personal property, as well as disaster-related dental, medical, and funeral costs to individuals regardless of income. Other Individual Assistance programs authorized by the Stafford Act include: unemployment assistance (section 410),<sup>8</sup> disaster food stamps (section 412),<sup>9</sup> disaster legal services (section 415),<sup>10</sup> and crisis counseling (section 416).<sup>11</sup>

Section 404 of the Stafford Act<sup>12</sup> authorizes the Hazard Mitigation Grant Program (HMGP). HMGP is an important part of the recovery effort. HMGP provides grants to State and local governments to rebuild after a disaster in ways that are cost effective and reduce the risk of future damage, hardship, and loss from all hazards. FEMA also provides grants under HMGP to assist families in reducing the risk to their homes from future disasters, through such steps as elevating the home or purchasing the home to remove it from the floodplain.

## II. Defining a Catastrophe and the Federal Government’s Role

In light of the magnitude of Hurricane Katrina and the difficulty many Gulf Coast communities faced after that disaster, there have been calls to reexamine the Stafford Act as well as FEMA’s administration of its authority under the Act, including whether the current statute is sufficient to address catastrophic disasters. A number of proposals have been made for a “catastrophic annex” to the Stafford Act.<sup>13</sup>

One difficulty is defining a catastrophe. The definitions of major disaster and emergency are already quite broad and provide the President a great deal of discretion. Among the questions the Committee may want to consider in defining a catastrophe are: Can catastrophe be defined with language that gives discretion? Should Congress give discretion especially if the authority would be extraordinary? Should there be objective benchmarks to give better guidelines while providing discretion to the President? Should there be recognition of events whose magnitude rise to a level where their impact is national, rather than limited to a particular state or community?

Some have suggested that specific types of hazards be included, such as a terrorist attack. However, the severity of the consequences is what denotes a catastrophic event, not the particular hazard that caused the event. Like all of emergency management, planning for catastrophic disasters should be all hazards.

<sup>8</sup> 42 U.S.C. § 5177.

<sup>9</sup> 42 U.S.C. § 5179.

<sup>10</sup> 42 U.S.C. § 5182.

<sup>11</sup> 42 U.S.C. § 5183.

<sup>12</sup> 42 U.S.C. § 5170c.

<sup>13</sup> See, e.g. Mitchell L. Moss and Charles Shelhamer, *The Stafford Act Priorities for Reform*, The Center for Catastrophe Preparedness and Response, New York University 2007 pp. 15 – 16 and *Far From Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita Recommendations for Improvement*. Report of the Ad Hoc Subcommittee on Disaster Recovery of the Senate Committee on Homeland Security and Government Affairs, Senate Report 111-7, February 2009 pp 278-280.

### III. Preparedness for, and Response, to a Catastrophic Disaster

In 2006, the Committee passed and Congress enacted the Post Katrina Emergency Management Reform Act<sup>14</sup>, which addressed some of the potential gaps related to catastrophic disasters. Most of these new provisions are related to planning and response, but not recovery. With respect to planning, the Act amended the definition of a “catastrophic incident” as:

Any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area,<sup>15</sup>

This definition provides the scope of planning activities for the Federal Government to prepare for a catastrophic incident. However, such a definition may be too broad to be used as a trigger for extraordinary authority to provide Federal assistance in the aftermath of such an event.

In addition, the Post-Katrina Emergency Management Act provided for additional authority for response activities including: “accelerated Federal assistance” which can be provided in the absence of a state request in certain situations during the response to a major disaster<sup>16</sup> or an emergency<sup>17</sup>; expedited payments for debris removal<sup>18</sup>; use of local contractors for federal disaster response contracts<sup>19</sup>; and the rescue, care, and shelter for pets and individuals and households with pets<sup>20</sup>.

### IV. Recovery From a Catastrophic Disaster

There are two characteristics about catastrophic disasters that may make new broad authority for recovery unnecessary. First, catastrophic disasters are complex, unusual, and hard to predict. Second, because of their magnitude, the shift from response to recovery often takes weeks or months, rather than days. Therefore, while the needs may be greater, there may be time to be deliberative and provide for specific and targeted authority for the unique problems presented in the recovery of a particular catastrophic disaster.

While every catastrophic disaster would likely have unique problems that would warrant targeted solutions, one difference from other disasters is that the need for Federal assistance would likely be more than what is necessary to “supplement the efforts and available resources of States, local governments, and disaster relief organizations.”<sup>21</sup>

There are a number of specific program requirements in FEMA’s disaster program that reflect a supplemental nature of Federal disaster assistance and would likely be an issue in any catastrophic disaster. Some of these are administrative or regulatory, such as adjusting the cost share

<sup>14</sup> Title VI of P.L. 109-295.

<sup>15</sup> 6 U.S.C. § 701(4) (2008).

<sup>16</sup> 42 U.S.C. § 5170a.

<sup>17</sup> 42 U.S.C. § 5192.

<sup>18</sup> 42 U.S.C. 5173.

<sup>19</sup> 42 U.S.C. 5150.

<sup>20</sup> 42 U.S.C. 5170b.

<sup>21</sup> 42 USC 5122(2).

for Public Assistance and ineligibility of “straight time” for state and local response activities. Others may require a statutory change such as the cost share for HMGP and the “Other Needs Program” or the \$5 million cap on Community Disaster Loans, which provide for revenue losses for local governments and public agencies.

#### **PRIOR LEGISLATIVE AND OVERSIGHT ACTIVITY**

In the 111<sup>th</sup> Congress, the Committee on Transportation and Infrastructure acted on the following bill related to FEMA’s Disaster Assistance Program:

- **H.R. 1746, the “Pre-Disaster Mitigation Act of 2009”:** This legislation reauthorizes and makes improvements to FEMA’s Pre-Disaster Mitigation Program, including codification of the competitive aspects of the program. On April 27, 2009, the House passed H.R. 1746 by voice vote.

In the 110<sup>th</sup> Congress, the Committee on Transportation and Infrastructure acted on the following bills related to FEMA:

- **H.R. 6658, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2008”:** This legislation amends the Stafford Act to improve the assistance the Federal Government provides to states, local governments, and communities after major disasters and emergencies. On July 31, 2008, the Committee ordered H.R. 6658 reported to the House.
- **H.R. 6109, the “Pre-Disaster Mitigation Act of 2008”:** This legislation reauthorized FEMA’s Pre-Disaster Mitigation program and makes improvements, including codification of the competitive aspects of the program. On June 23, 2008, the House passed H.R. 6109 under suspension of the rules by voice vote.
- **H.R. 3247, the “Hurricane Katrina and Rita Recovery Facilitation Act of 2007”:** This legislation provides additional Federal relief targeted to the recovery from Hurricanes Katrina and Rita in Louisiana and Mississippi. On October 29, 2007, the House passed H.R. 3247 under suspension of the rules by voice vote.
- **H.R. 3224, the “Dam Rehabilitation and Repair Act of 2007”:** This legislation establishes a program to provide grant assistance to states for use in rehabilitating publicly-owned dams that fail to meet minimum safety standards and pose an unacceptable risk to the public. On October 29, 2007, the House passed H.R. 3224 by a recorded vote of 263-102.
- **H.R. 1144, the “Hurricanes Katrina and Rita Federal Match Relief Act of 2007”:** This legislation provides significant relief for communities devastated by Hurricanes Katrina, Rita, and Wilma, by raising the Federal cost share for critical disaster relief programs to 100 percent and by authorizing the cancellation of Community Disaster Loans under certain conditions like all previous Community Disaster Loans. H.R. 1144 was enacted as part of

In the 111<sup>th</sup> and 110<sup>th</sup> Congresses, the Committee and Subcommittee held numerous hearings related to FEMA's Disaster Program, including:

- "Post-Katrina Temporary Housing Dilemmas and Solutions" (March 20, 2007)
- "FEMA's Emergency Food Supply System" (April 20, 2007)
- "FEMA's Preparedness and Response to ALL Hazards" (April 26, 2007)
- "Legislative Fixes for Lingering Problems that Hinder Katrina Recovery" (May 10, 2007)
- "Assuring the National Guard is as Ready at Home as It is Abroad" (May 18, 2007)
- "Readiness in the Post-Katrina and Post-9/11 World" (September 11, 2007)
- "National Flood Plain Remapping: The Practical Impact" (April 2, 2008)
- "Saving Lives and Money through Pre-Disaster Mitigation" (April 30, 2008)
- "Moving Mississippi Forward: Ongoing Progress and Remaining Problems" (June 19, 2008)
- "Role of the Federal Government in Small Business Disaster Recovery" (September 12, 2008)
- "FEMA's Response to the 2008 Hurricane Season and the National Housing Strategy" (September 12, 2008)
- "Post-Katrina Disaster Response and Recovery: Evaluating FEMA's Continuing Efforts in the Gulf Coast and Response to Recent Disasters" (February 25, 2009)
- "Disaster Capacity in the National Capital Region: Experiences, Capabilities, and Weaknesses" (April 3, 2009)
- "FEMA: Preparedness for the 2009 Hurricane Season" (May 1, 2009)
- "An Independent FEMA: Restoring the Nation's Capabilities for effective Emergency Management and Disaster Response" (May 14, 2009)
- "Still Post-Katrina: How FEMA Decides When Housing Responsibilities End" (May 22, 2009)

WITNESSES

**Mr. Craig Fugate**  
Administrator

Federal Emergency Management Agency

**Mr. Donald P. Dunbar**  
Adjutant General  
State of Wisconsin

*Testifying on behalf of the National Governors Association*

**Mr. Dave Maxwell**  
Vice-President

National Emergency Management Association

**Mr. Russ Decker**  
President  
International Association of Emergency Managers

**Mr. Mitchell Moss**  
Henry Hart Rice Professor of Urban Policy and Planning  
New York University

**Ms. Jane Bullock**  
Principal  
Bullock and Haddow, LLC  
*Former FEMA Chief of Staff*

**Mr. Joe Becker**  
Senior Vice-President, Disaster Service  
American Red Cross

**Mr. Francis McCarthy**  
Analyst  
Congressional Research Service

**POST-KATRINA: WHAT IT TAKES TO CUT THE  
BUREAUCRACY AND ASSURE A MORE  
RAPID RESPONSE AFTER A CATASTROPHIC  
DISASTER**

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**Monday, July 27, 2009**

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,  
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,  
*Committee on Transportation and Infrastructure,*

WASHINGTON, DC.

The Subcommittee met, pursuant to call, at 2:20 p.m., in Room 2167, Rayburn House Office Building, Hon. Eleanor Holmes Norton [Chair of the Subcommittee] presiding.

Ms. NORTON. I apologize that I was detained, because this is a hearing of some considerable importance to the Subcommittee. It is not about any disaster that we have seen except 9/11 and Katrina. So it looks to the future in a way that perhaps we should have done for Katrina, except that Katrina was such an unimaginable event that it did not occur to anyone, I believe, to think of such a gargantuan matter.

For today's hearing, we will address the very important new and unresolved questions that Hurricane Katrina raised for our country for the first time: What is a catastrophic disaster? Note that word: "catastrophic disaster." Think of it as a new invention. We haven't used that word before. What is the role of the Federal Government before, during and after these events? Is additional authority needed to address response and recovery from these events?

We cannot sit by and really hope that outsized disasters such as Hurricane Katrina and 9/11 will never occur again. Our obligation to the public requires investigation by this Subcommittee to prepare us for the possibility of these contingencies.

Hurricane Katrina made landfall August 29, 2005, and proved to be the most costly natural disaster in American history. Congress, and particularly this Subcommittee, have spent the nearly 4 years since Katrina looking at the action of the Federal Government, as well as State and local governments, voluntary agencies and citizens themselves, from response to recovery, which continues to this day, on the Gulf Coast.

Today's hearing focuses on the next steps. What did we learn from Hurricane Katrina, as well as from other disasters in the United States and around the world, concerning what should be done to respond to catastrophic disasters and to facilitate recovery? Most important, what steps should all concerned be taking now to

prepare for and mitigate the risks to lives and property from these events?

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, or Stafford Act, was signed into law November 23, 1988, but it is not clear that Congress contemplated gargantuan disasters with recovery proceeding for years. The act authorized by our Committee is the Federal Government's primary authority for addressing major disasters, from all hazards and events. For the most part, this authority has proven sufficient to address all types of disasters and emergencies, but it is an open question whether the Stafford Act is sufficient when measured against the background Hurricane Katrina now provides.

The Stafford Act and our Nation's emergency management system are grounded in our Federal system of government that recognizes that the primary responsibility to address disasters and emergencies resides with States and communities, not the Federal Government. As a result, the assistance provided after a disaster is as the Stafford Act provides to, and I'm quoting here, "supplement, supplement the efforts and available resources of States, local governments, and disaster relief organizations." However, it is already clear that one characteristic that distinguishes catastrophic disasters from other disasters is that the magnitude of a huge disaster often has national impact, national impact, impact beyond the seat of the disaster, rather than effects limited largely to a particular State or community. We must therefore reevaluate the role of the Federal Government as well as FEMA's authorities, policies, and regulations that presume Federal assistance is always supplemental, regardless of the disaster.

The Stafford Act existing authority and systems for the emergencies and disasters that the country faces are so detailed and time-proven that this landmark statute provides the necessary base for additions or revision if needed. However defined, Katrina teaches that catastrophic disasters are complex, unusually large in effects, hard to predict and expensive. Moreover, they are distinguishable. Distinguishable because they require months, rather than days or weeks, months indeed, and probably years rather than days or weeks, to move from response to recovery. Inevitably, therefore, the Subcommittee cannot avoid the question whether new extraordinary authority should be given to the President of the United States in advance, and whether Congress should provide for the recovery from catastrophic disasters that is specific and targeted to the size of these unusually large and pervasive events.

The Subcommittee looks forward to hearing the testimony of today's witnesses to help us address how we can prepare for these catastrophic events. We particularly welcome Administrator Fugate, who has recently taken office and is testifying before this Committee for the first time.

Ms. NORTON. I am pleased to ask our Ranking Member Mr. Diaz-Balart if he has any opening remarks.

Mr. DIAZ-BALART. Thank you very much, Madam Chairwoman, and actually I want to thank you for holding this important hearing; and obviously for the witnesses, as always, for their contributions and their expert testimony. It is good to see you, sir.

I also want to welcome, Madam Chairwoman, Administrator Fugate in his first hearing before this Committee in his new position. Now, he has been doing this kind of thing before, at a different level, and I am actually very excited that now he is doing it here at the Federal level.

After Hurricane Katrina, Congress made it very clear that we needed a FEMA Administrator who knows what he is doing and has the authority to get the job done. And the President, I think, found the best person in the country, a person who knows what he is doing, who has, I guess unfortunately, a lot of experience dealing with large and small emergencies. And again, I have tremendous confidence in Mr. Fugate. I am really looking forward to continuing working with him, and hopefully he will not be too busy. That is something we are obviously all hoping for.

I also need to acknowledge the tremendous work that Congressman Cao has done to speed the recovery funding in Louisiana. We still have issues after that storm. He has held several roundtables with FEMA, with State and local officials, and with Members of Congress. I have been involved in some of them. Frankly, he has helped free up hundreds of millions of dollars for those stricken by Katrina. He has also been working, Madam Chairwoman, closely with the experts such as the witness today, Mr. McCarthy of the Congressional Research Service, on possible changes and recommendations to the Stafford Act. I believe many of the options that Mr. McCarthy will be presenting to the Committee for reforming the Stafford Act are, frankly, a direct result of Congress Cao's efforts, and again I thank him for his aggressive involvement with this Committee and these important issues. Thank you, sir.

Now, obviously, as the Chairwoman said, Katrina was a horrible, huge, devastating hurricane. Unfortunately, as we know, it is very unlikely that this will be the largest one that hits us or the most—the largest catastrophe, the most damaging one that hits our country. A Category 5 hurricane in south Florida could come at any moment, or an 8.0 earthquake in California, or a pandemic flu. We keep hearing about pandemic flus right now. All those are possibilities that could hit us at any time.

So while disasters obviously that large would stress the entire emergency management system, I want to focus on a few important areas that I think are of the most concern. There needs to be obviously a clear, Federal chain of command, and that is essential during a catastrophic disaster. And it can be a critical point of failure, as we saw during Katrina. I have mentioned this before, as I mentioned it earlier as well.

You know, Congress changed the law to ensure that the Nation has a qualified FEMA Administrator who really knows what he is doing, who would coordinate the Federal response on behalf of the President. Now, unfortunately, the President has yet to update the Presidential Directive on Incident Management, which is HSPD 5, to reflect this change. And DHS has built a duplicate incident management organization outside of FEMA. And Congress continuously tries to defund—I will get into that later.

So as I recall, the entire reason FEMA had to be within DHS, that is what we were told, was so that we could use FEMA to manage the response. DHS and the government could use FEMA to

manage the response to a terrorist attack. And yet for the last few years, DHS has built a parallel incident command structure that bypasses FEMA. Again, makes no sense.

Now, as a result, it is, frankly, not clear to me or to some of the witnesses—of our witnesses who will be in charge, those who will be in charge to coordinate the Federal response until the Secretary decides to appoint a Principal Federal Officer known as a PFO during a disaster. Who would be in charge, FEMA or this outside PFO? This confusion, frankly, is a recipe for failure.

And also another thing, Madam Chairwoman. The Department needs to follow the law. And I know you have been writing letters to the President on this.

Another critical issue I hope that we can address is the role of Department of Defense. Now, during a megadisaster, Department of Defense forces will be needed quickly. And I understand that there is an effort—well first, obviously, what is the effort of DOD? They need to be there, available quickly, and we saw how well they responded during Katrina. And they have to be well coordinated with FEMA, and they also have to be in a supporting role to the States. States, when they run out of resources, that is when you need DOD to come in, and, if it is a big disaster, to come in big.

I understand the Department of Defense is recommending a change in the way we respond to disaster, and I have also heard that that change, that potential change, has caused, frankly, considerable concern among a number of Governors, and I have to admit that I share many of the Governors' concerns. And so I hope that we can talk about that.

Another critical failure, and this is something that the Chairwoman has brought up many times—matter of fact, we had a hearing in south Florida, and you brought that up, Madam Chairwoman—to deal with the housing issue, what to do with the 500,000 or over 1 million families forced out of their homes by one of these horrible catastrophic disasters. Despite the release of a natural disaster housing strategy, there is still no clear solution to addressing the housing issue at that scale.

Now, I do need to commend FEMA for—I read that they are looking at other options, thinking outside the box, even looking at the possibility of in some cases using homes that may be under foreclosure. So I commend FEMA for thinking outside the box. But, again, we need to make sure that we have a strategy for the big storm or the big event if it comes or when it comes.

Mitigation and preparation are other issues that must be examined and clearly improved. Earlier this year I introduced the Integrated Public Alert and Warning System Modernization Act, along with Chairwoman Norton and Representatives Cao, Guthrie and Graves of this Subcommittee. I also introduced a Safe Building Code Incentive Act. Both of these bills are intended to help prepare for a big storm and to mitigate against disasters. Providing incentives for States to enact building codes is, frankly, a very effective, commonsense way to minimize damage and the loss of life that a catastrophic disaster could entail, and we have seen that it does work. And developing a truly integrated public alert warning system is obviously critical to saving lives.

Now, with countless methods of communication available today, Twitter, Facebook, e-mail, et cetera, et cetera, we are still using a 1950s model, which is the little beep that we hear on our TVs and our radios, and that is frankly it. Well, that is not enough, because there are more ways to communicate, and we need to do that.

So the issue that I have raised impacts disasters of all sizes, but the big one, the catastrophic disasters, magnify obviously their significance and their importance. So it is important for us today to determine if the current framework for energy management is adequate for, again, catastrophic disasters, or should there be some more capabilities and flexibility built into the system. So again I hope that we will hear from our witnesses today on these and other issues.

I want to thank you, Madam Chairwoman, for convening this meeting. Again, it is one of the issues that means a lot to all of us, but particularly those of us who live in States that are prone to disasters. Thank you.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart. You raise some other salient questions that have been before us.

Mr. Cao, do you have any opening statements?

Mr. CAO. Madam Chair, first of all, on behalf of my constituents, I would like to thank the Chairwoman and Ranking Member for holding this important hearing today and for their sustained attention to the recovery of Orleans and Jefferson Parishes. I also appreciate their recognizing the significant challenges to recovery presented by certain aspects of the Stafford Act.

And when we are talking about the Stafford Act, one of the questions that we are exploring today is whether we should create under the act a separate incident level for catastrophic events. And to help us clarify what these terms may imply, I would like to tell you what Katrina did to my district.

Many of the critical institutions like charity hospitals and basically the entire health care infrastructures in hardest hit New Orleans East have never reopened. Other basic services like police, fire and rescue, libraries and schools were wiped away by the floodwaters and are simply today padlocked shells of buildings. In the immediate area around New Orleans, 80 percent of the buildings and 40 percent of the housing stock were damaged in some way. In my mind and in the mind of my constituents, what Katrina did to the Gulf Coast and to Orleans and Jefferson Parishes was, without a doubt, a catastrophe.

After Katrina, I spent a significant amount of time talking to my constituents and also to Federal officials, with Administrator Fugate and with Mr. McCarthy, about what changes need to be made on the Stafford Act. We are taking a comprehensive relook at the Stafford Act and the regulations that support it. And I would seek your support, Madam Chairwoman and Mr. Ranking Member, in these efforts.

The Stafford Act is currently set up to provide recovery dollars on a project-by-project basis. For Gulf Coast States that were hit by Hurricanes Katrina and Rita, this is not optimal due to the extent of destruction. The fact that we are nearly 4 years from these events, and the States and FEMA are still arguing over doorknobs

and whether a building that was flooded, gutted and falling down was more or less than 50 percent damaged demonstrates this.

In catastrophic or megadisasters, the States and localities need to have the flexibility to rethink and replan their recovery and hazard-mitigation plans. They need to have the flexibility to decide whether rebuilding in the predisaster footprint is the best solution for the communities long term.

What are some of the fixes that I hope to look at in regards to the Stafford Act? Legislatively, creating an incident level for catastrophes or megadisasters for which a wholistic look at the community's needs would be taken; the feasibility of lump-sum settlements in megadisasters like that which was legislated to respond to the disaster of September 11; shifting more responsibility to and thereby incentivizing States and localities to prepare better for disasters, for example, tying building codes to the amount of recovery dollars ultimately provided by the Federal Government. This is something that the Ranking Member has been working on through legislation. And I am proud to support this, revising the management structure of FEMA and other agencies to shift decision-making from the upper level of management, where bottlenecks occurred, to the staffs on the ground and meeting with local government representatives on a daily basis.

In the course of my conversations with the different parties, it has become abundantly clear to me that FEMA employees have been almost indoctrinated to believe that they are handcuffed by the Stafford Act and therefore can't come up with out-of-the-box solutions. When you have major disasters like Hurricane Katrina, we need creative thinking, but FEMA employees are allowing themselves to be mired in red tape, causing them to retreat from difficult questions and creative solutions by hiding behind the Stafford Act and what it does and does not allow.

My reading of the Stafford Act is that it is an incredibly flexible piece of legislation that was always envisaged to provide a framework. The real problem is for decades FEMA has been layering regulations one on top of another, which is actually what is hampering FEMA employees. FEMA has restricted itself with inconsistent regulations so much so that they can't be a partner in communities' recovery, which is what they ought to be.

I am hopeful that Secretary Napolitano and Administrator Fugate will the same sort of self-awakening about restrictions to FEMA, and that they will fundamentally rework the regulations hampering performance. However, I want to make it clear that if we don't see real progress in freeing up the creativity and proactive thinking of FEMA employees, we will draft legislations that require you to do so.

With that, I am looking forward to your testimonies, and I hope to work with you further in the future to look at the Stafford Act and how we can improve the cooperations of FEMA with the State and local employees.

Thank you very much, Madam Chair.

Ms. NORTON. Thank you, Mr. Cao.

We are very pleased now to welcome our colleague, Mr. Loeb sack of Iowa, who has remarks and testimony of his own. I am pleased to receive them at this time, Mr. Loeb sack.

**TESTIMONY OF THE HON. DAVID LOEBSACK, A  
REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA**

Mr. LOEBSACK. I want to thank Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee for giving me the opportunity to testify today. I am not the expert. I am just a Congressman from the Second District of Iowa, an area where we had essentially our own Katrina in June of 2008. And it is really—this has just been wonderful for me at the outset here to listen to my colleagues.

And, Mr. Cao, I really appreciate what you had to say, because while New Orleans is at the—you know, sort of at the end of the line, if you will, as far as the Mississippi River is concerned, and we are way up north, there are a lot of things that I think we have in common in terms of our thoughts about how to do this differently.

And I do want to say at the outset that I think FEMA did a pretty darn good job in Iowa and has done a good job, but there are a lot of things that obviously can be changed. So I am looking forward to working with you folks in the future as to how we can change things.

And I also want to say at the outset, too, that I said throughout when this first happened to Iowa in June of 2008, there is nothing partisan about catastrophes. It doesn't matter whether you are Republican or Democrat, you are going to get hit by a catastrophe. And working together, I think, in a bipartisan way is really absolutely critical. So that is what I am looking forward to doing as well.

Our flood in Iowa was truly a 500-year flood; 85 of the 99 counties were Presidentially declared disaster areas and represented about 85 percent of the entire State. Some of the hardest hit areas were in my district: Cedar Rapids, Iowa City, the small town of Oakville, Coralville and Columbus Junction. It is estimated that Cedar Rapids alone has nearly \$5.6 billion in recovery needs. That is right. One city of 120,000 or so in Iowa, \$5.6 billion in recovery needs.

With this in mind, then, consider that about \$3 billion has been allocated to the entire State of Iowa for disaster recovery, which includes a large amount of State funds, even though damage statewide early on was estimated at about \$10 billion.

When considering what constitutes a catastrophic disaster, one indicator which may be useful to consider would be the damages relative to community or State budgets and resources. The State of Iowa had receipts for fiscal year 2009 of around \$6.9 billion compared to the estimated \$10 billion in statewide damage. And the City of Cedar Rapids had a budget for fiscal year 2009 of nearly \$380 million. And keep that in mind when you think about the \$5.6 billion in needs.

And then to further bring the magnitude of this disaster in perspective, when calculating estimated damage through FEMA's Public Assistance Program, the Iowa floods alone rank as the fifth largest disaster in U.S. history. And if you take away nothing from my testimony besides the largesse, the significance of the widespread magnitude of this disaster, then I will have accomplished some-

thing. It is my job to keep this in the forefront of your minds and the minds of the American people.

FEMA was not, of course, our only source of assistance. Many Federal programs, departments or agencies were mobilized and utilized during and after our disaster. FEMA, for example, agreed to lower the cost share to 10 percent for all of our public assistance categories and waive the cost share completely for others because we had to get waivers and extensions and changes to the current law that we had to work to put in place, and this was one example.

In addition, the application periods for FEMA's individual assistance, disaster unemployment assistance and public assistance were extended. And numerous other waivers were granted through Federal—various Federal departments or agencies. I also worked with my colleagues in the last Congress to pass two supplemental disaster relief appropriations bills. The largest of these funds allocated to Iowa, \$800 million, comes from the Community Development Block Grant Program through HUD.

It is my understanding that effective use of CDBG funds after Hurricane Katrina continues to be an issue as well, and some mention was made of housing. CDBG funds are not traditionally used, as you all know, for disaster relief, and therefore, they are not ideally suited to be flexible enough, nimble enough. This is something that I heard from you folks, the need for nimbleness, if you will, to meet the immediate postdisaster recovery needs of States and communities.

HUD Secretary Donovan stated during a visit to my district that the State of Iowa and the City of Cedar Rapids are models for efficiently utilizing CDBG funds for disaster recovery. I am proud of that distinction, but I do have to wonder why, at this point, the Federal Government is still looking for models of efficiency.

I know it has not been an easy journey for my district, and the journey is far from over, but if Cedar Rapids in Iowa can provide examples of best practices for the future, then I look forward to working with Secretary Donovan, to all of you on this Committee, to those who are about to testify, to Mr. Fugate, and so we can deal more effectively and more efficiently with these issues when they arise with these catastrophic disasters.

And perhaps I think maybe we should begin with a simple assumption, that we are going to be faced with catastrophes in the future. We have to just simply accept that fact. I know that in the past we have said that we knew that, but I think all of us who have been through these catastrophes wonder if, in fact, we really believe that they are going to happen again, because we need to be better prepared. There is no doubt about it.

So thank you very much for allowing me to testify today. I real appreciate this opportunity. I am going to turn it over now to the experts, and I am looking forward to hearing what they have to say and reading their testimony and, as Mr. Cao said, continuing to work with our relevant administrators at the Federal levels. So thank you very much for the opportunity to testify today. Thank you.

Ms. NORTON. Thank you, Mr. Loeb sack.

You have introduced a new element, one I am not sure is unique, but certainly very much worth looking at, at the cost of the event

versus the budget, although that is the annual budget of the State. So that is a matter we should look into as another element and see it if had been considered before.

Are there any questions for Mr. Loeb sack?

Mr. Diaz-Balart.

Mr. DIAZ-BALART. Just a brief comment.

It is interesting that you state that. Those of us who have gone through it become aware of it, of those catastrophes, and you are so right about making sure that we continue to remind people that this is going to happen. And it is not going to happen only in one part of the country, it is going to happen anywhere, any time. And your observation about the fact that the incidents are nonpartisan is so true.

As well as I am very proud of, in particular this Committee, the response of Congress, and particularly this Committee has also been nonpartisan. But it is very important to always remember even in places like Florida where it has been a few years since we got hit by the big one, Andrew, which actually was not as big as we thought. It was huge, but a worse one could come. So you get complacent. So it is important to keep reminding us to not do that. So I thank you for bringing that up again. Thank you, sir.

Ms. NORTON. If that was the standard, it would be the budget of the State of Louisiana for decades, I am afraid. And that may be what we, in fact, end up paying because of the nature of the disaster.

Thank you very much, Mr. Loeb sack.

Mr. LOEBSACK. Thank you for holding it.

Ms. NORTON. We are pleased now to welcome our first witness, Administrator Craig Fugate, who, of course, is the new Administrator of the Federal Emergency Management Agency itself, for his first appearance before our Subcommittee. Welcome, Mr. Fugate.

#### **TESTIMONY OF CRAIG FUGATE, ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY**

Mr. FUGATE. Thank you, Chairwoman Norton, and Ranking Member Diaz-Balart and other Members of the Committee. It is an honor to be here before your Committee, ma'am, and talking about catastrophic disasters.

So what is a "catastrophic disaster?" What definition do we use? Well, in the National Response Plan Framework, we define it as any natural manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage or disruption, severely affecting the population, infrastructure, environment, economy, national morale or government functions.

Of course, if I am in a town of 100,000, and I have a catastrophic event, it may not be catastrophic to the overall system. So I often-times think when we talk "catastrophic," particularly at our level of FEMA, we are looking at those events that have national impacts versus those that may be very localized, that we can still respond with our normal process and resources to get in there quickly. So when we talk about catastrophe at FEMA, we are really talking about those events that are of such magnitude they take on a significance impacting our national ability to respond, recover and move on from those.

In particular, I was interested in the conversation about Stafford Act and hearing both opening statements and questions as to the Stafford Act. One, it is an extremely flexible document, and it is quite capable of doing many things, yet what else do we need to do to make it more responsive?

Madam Chair, I would first like to lay out how I am approaching this both in my confirmation process and in the 2 months I have been there. I believe I am taking a three-tier approach, because obviously, until I have guidance from Congress on which way you want to proceed, the most immediate thing we can do is look at our policy internally and address that first. That is our first step.

I have directed Beth Zimmerman, who has come on board to head our Disaster Assistance Directorate, which deals with those matters of individual assistance and public assistance, to look at our current policy and guidance to address those issues that are being brought up on "are we," "do that," limiting what we are able to do in a disaster.

The second piece within looking at the rules, the Code of Federal Registry, CFR 44, which governs the rulemaking of the rules that we administer the Stafford Act under, and then look at the Stafford Act as a whole. But I think in our first steps is to really look at what we have in FEMA done as far as our policy guidance and make sure that it is not proscribing or preventing us from using the tools that the Stafford Act actually gave us to.

When we talk about "catastrophic," I think, again, we oftentimes look in the past. I am looking towards the future and looking at some of the scenarios that we still face as a Nation, not only those that have occurred, but what are some of the other types of events that we could face, New Madrid, a California earthquake, a major hurricane again in the Gulf Coast of Florida, a hurricane that strikes Hawaii, and looking at developing plans based around what the impacts are.

I think one of the challenges we have had in the emergency management is oftentimes we will plan to our capability and hope that the disaster is not any bigger. And what I have found over my history is that if you don't plan for the potential impacts and look at how your system is applied, you run with the false sense or the illusion that you are able to manage these events, but at the point of failure, you have catastrophic failure, not just a system that you need to expand.

And I believe in partnerships. One of the things that I want to make clear is—and we talk about disaster response, particularly catastrophic disaster response—FEMA is not the team; FEMA is part of the team. Under the Federal system, we have to leverage and work as partners with our local, State, our Federal agencies, our private sector, volunteer faith-based, community-based organizations and the public to build a team that can respond to these very large-scale events, some of which may reach the point on a national scale of being catastrophic.

So to summarize, Stafford Act has a lot of tools in it, but we must first take a look at our and policy guidance which we are doing to determine what we can do within the scope of Stafford to address many of the concerns that have been raised both in previous disasters and the ones we are facing; two, building a team

based upon what the consequences we are facing in some of these events are, and building that capability by leveraging all of the resources of the country, not just looking at FEMA; and third, finally, the understanding that in catastrophic disasters, we must not continue to look at the public as a liability, but look at them as a resource that we incorporate into our planning.

Too often times I have run into challenges where we have, in many cases, written plans for what I call the easy-to-help part of the population, the able-bodied adults who understand and read English and have enough means to take care of themselves in the immediate impact of a disaster. That is not the communities we live in. Our communities are made up of children. They are made up of frail elderly. They are made up of people with disabilities. And our tendency is to look at those folks after we wrote the basic plan to address those challenges. I think if you are going to be successful in any scale disaster, including catastrophic, you have to design plans that address the needs of a community, not just those folks that are easy to help.

With that, Madam Chairman, I will conclude my remarks and welcome questions.

Ms. NORTON. Thank you, very much.

Mr. FUGATE, now, would you describe for us your own background in emergency management, when it began, how it began, and how you rose to your present position?

Mr. FUGATE. Yes, ma'am. I started out in 1987 as a lieutenant with the Alachua County Fire Rescue Department. I was a paramedic firefighter. I was asked to come in and work on the county's disaster plans.

Ms. NORTON. Where was this located?

Mr. FUGATE. In Gainesville, Florida, Alachua County. I began working in 1987, that February, a career that took me for the next 10 years working at the county level as the emergency manager. I had several large-scale chemical incidents that we dealt with as well as numerous other storms and flooding events. But fortunately, when Hurricane Andrew hit, Alachua County was not directly impacted, even though we hosted evacuees from south Florida.

In 1997, I was offered the opportunity go to the State and to serve as the bureau chief for preparedness response. I joined the team of the late Governor Chiles. And, again, looking at the lessons of Hurricane Andrew and what had happened to address the concerns the State had, I joined a team that was working hard with the Florida Legislature to continue to build and improve upon that. We found out in 1998 how much we were able to move forward in that we had over 200 days we were activated through wildfires, floods and Hurricane George. The situation was such that it was the first time on the east coast we actually evaluated an entire county because of wildfires because of the threat.

2001, I was asked by Governor Bush to serve as the director of emergency management. And that October, serving in that capacity through the 2004 hurricane season, we had four land-falling hurricanes. Between 2004 and 2005, we had a total of eight hurricanes hit the State of Florida, five of which were major hurricanes. In addition to that, in the immediate aftermath of Hurricane Katrina, at

the bequest of the State of Mississippi, we provided the Emergency Management Assistance Compact and ended up deploying over 7,000 responders, and expending over \$80 million in State funds, and providing everything from search and rescue teams; interoperable communications; food, water and ice; and just about anything else we could provide to those local governments at the request of the Governor.

We also as a State had sent resources to the State of Louisiana. But we ended up, because of the proximity of the road systems and the fact that we had lost the I-10 bridge across Pontchartrain, focused in Mississippi to provide them assistance.

Governor Bush stepped down, and Governor Crist was elected, reappointed me. One month into his administration, we had a tornado outbreak what 21 fatalities. This summer, or actually this spring, I was asked by the President to serve in his administration and was confirmed in May and have been serving as FEMA Administrator for the last 2 months.

Ms. NORTON. Mr. Fugate, I had you lay out that history because it is very important to this Subcommittee. It has been the view of this Subcommittee that, particularly for unforeseen disasters, but even for the run-of-the-mill disaster, at the Federal level, the way to respect—what your testimony indicates with my own opening statement about responsibility lying at the State is to have somebody who has been there, done that, and who has very deep and wide experience in emergency management.

We are pleased to lay that on the record because the President has appointed somebody who has what appears to be experience in Democratic and Republican administrations, got appointed to his present position and to others he had in the State on the basis of merit. That is important for us and for the record to show, because I am going to ask you a question about this Agency, which has been a thorn in this Subcommittee's side, frankly, and in the side of Congress itself. It seemed to fall apart after Hurricane Katrina.

Now, nobody expected somehow FEMA to rush in there like a knight in shining armor and rescue Louisiana, but it didn't seem to know which side was up; was saved by the Coast Guard, by people from various States such as your own; and the result was the post-Katrina act, and even now, pending legislation that would even take FEMA out of the Department of Homeland Security so compromised was its independence.

The first thing I would like you to tell this Committee is about the independence of the Agency within the Department of Homeland Security. The perhaps major criticism was that while FEMA was a nimble Agency before that got on the ground quickly, somehow it became mired in the superstructure of the Department of Homeland Security, and that all decisions had to go from the Administrator through some newfangled bureaucracy that we ourselves had created in setting up the Department to the detriment of FEMA. Well, we left FEMA in Homeland Security, but we passed legislation making it clear that Homeland Security was not to compromise the ability of this Agency to move forward.

I want some indication from you whether or not FEMA is as independent as anybody would expect, given the fact that it is still in the Department of Homeland Security? It goes to how the re-

porting goes; whether you are equipped and authorized to make decisions, or do you have to ask somebody several sheets up the bureaucracy before a decision can be made; whether it is made in Washington or made in Louisiana. I need to know what the chain of command is in your own Agency before we get down to the States having to then ask you something. How independent is this Agency within the bureaucracy today?

Mr. FUGATE. Madam Chair, I report to the Secretary. The Secretary reports to the President. I serve as their principal—

Ms. NORTON. There are no officials between you and the Secretary?

Mr. FUGATE. No, ma'am. As a component I report directly to the Secretary.

Ms. NORTON. Is that a change?

Mr. FUGATE. Yes, ma'am. That was a direct result of the Post-Katrina Emergency Management Reform Act, which says the Administrator of FEMA reports directly to the Secretary.

Ms. NORTON. That is very important for us to know.

Do you find in practice that that is the way, since you have been in the Agency, matters have been handled?

Mr. FUGATE. Pretty much so. I have direct access to the Secretary. We meet weekly. Of course, she has, working with her Deputy, branched out in some of the things we are looking at in the quarterly or the quadrennial review, but those are more functions of the Secretary assigning work tasks—

Ms. NORTON. Do you have to go to the Secretary for everything? You know, FEMA is given authority, pure and simple. We didn't change the authority of FEMA when we put FEMA in the Department of Homeland Security. So can you make most of the decisions you have to make on your own, or do you have to say to the Secretary, this is what I want to do, Madam Secretary; do I have your sign-off?

Mr. FUGATE. There are some things that, because of procurement or other issues, that are assigned to Secretaries that will go through that level, but by and large—

Ms. NORTON. Well, this being a disaster, then, procurement matters in a disaster, would you have sign-off, procurement sign-off, for matters in a disaster within your budgetary authority?

Mr. FUGATE. Madam Chairman, yes.

Ms. NORTON. Thank you, sir.

We have understood that the bureaucracy has to clear some of your actions. That is not the case?

Mr. FUGATE. Madam Chair, Secretary Napolitano, having served as a Governor, obviously understands the roles and responsibilities we have in supporting Governors. There are many moving pieces within Homeland Security, but within a disaster itself we are able to move forward and take the actions we need to take.

Ms. NORTON. Virtually as if you were an independent Agency or not? I don't want to put words in your mouth.

Mr. FUGATE. Under my reporting relationship through the Secretary, we are able to perform our function.

Ms. NORTON. Report is one thing, permission is another. If we get into permission matters, the supersized disaster we are talking about will be supersized repeated.

What is the role of the Office of Operations Coordination? You know, I hate these names. The average person really loses confidence in us once we get into the OOC. What is the Office of Operations Coordination? When was it created, by whom, and what is its function?

Mr. FUGATE. Madam Chair, I defer back to Homeland Security. That was created and has been a standing element prior to me joining DHS and FEMA. Within our center we have the National Response Coordination Center that we coordinate with the National Operations Center. Other components within DHS coordinate with the National Operations Center, which gives the Secretary visibility on a variety of issues, including things such as border matters, coastal issues, other activities that occur within the Department under her purview as the other components.

Ms. NORTON. Now, yes, the DHS has created this Office of Coordination at DHS. Now, as we look at statutory role of FEMA, we see conflicts with the role and many of the statutorily mandated functions of FEMA itself. And the Agency appears to be relying on—and this really does get the Committee upset, because it appears to be relying on these outdated administrative documents.

Here are some more initials for everybody: HSPD 5. Now, this is exactly what we had in mind when we passed the Katrina Act and overruled these administrative documents. Can you explain, therefore, in light of the Post-Katrina Act, why HSPD 5 is still an outstanding administrative document? And the role of the so-called Office of Operations Coordination in preparing for and responding to disasters, does it have a role and function? And why in the world are you relying or does the Agency appear to be relying on administrative documents that have been overruled, overruled by statute?

Mr. FUGATE. Madam Chair, as part of the executive branch, the President's prerogative in Executive Orders, obviously, in looking at those that have been issued in previous administrations carried forward in this administration, many of these are still under review. As to what the post-Katrina emergency management format directly speaks to, and what may be potentially in conflict with HSPD Number 5, or Homeland Security Presidential Decision Directive Number 5, I am aware of these issues, but I have been more focused on our role and responsibilities and administering our part of that program.

Ms. NORTON. I am pleased to learn that at least these matters are under review, because you don't want Congress twice revisiting. Then you get us really mad, and you lose authority, because we have the same problem with Principal Federal Officer. In fact, we have real problems with that one, because we did revisit that one. Apart from the Post-Katrina Act, we revisited it more than once because of what we had witnessed on the ground, red tape after Katrina.

Now, the so-called Principal Federal Officer—everybody who thinks that substance matters will have to pardon me while I get through these bureaucratic names that they paste onto functions, where sometimes a function disappears or is in conflict with the statutory mandate. But here goes. It is called by DHS the Principal Federal Officer, PFO, conflicts directly with the statutorily created Federal Coordinating Officer so that something happens on the

ground, no matter who comes, whoever is in charge stands up. This is a war when there is a natural disaster, just like there is a war when there is, in fact, a war. You got to know who is in charge. That was one thing Katrina taught us to clear up. These duplicative functions were cited as a primary cause of the failed response of Hurricane Katrina. That is why we have some exasperation concerning this officer.

Now, I need to ask you whether DHS, in fact, seeks the repeal of the statutory mandate put in place to avoid duplication, and whether the Agency is continuing to rely on administrative documents that have been overruled by statute. And you have said that that is under review and, for that matter, the National Response Framework, to attempt to disregard these statutory provisions. We need to know now, because we need further clarification. When an agency simply is in contempt, well, we revisit it again, and we need to know what about these PFO and FCO—by the way, we are joined in this inquiry by the other Committee on which I serve. The Committee on Homeland Security, which has the same problem, cosigns with us on letters and cosponsored with us the statutory repeal. So could I have your answer?

Mr. FUGATE. Madam Chairman, I will have to defer some of that back to the Department, but as far as the FCO goes, it is clear to me the way the statute is written that the FCO, under a Stafford Act either emergency or major Presidential, is the person—

Ms. NORTON. Say that again, please.

Mr. FUGATE. Madam Chairman, it is my interpretation of the Stafford Act and post-Katrina emergency management format clearly states that when the President declares an emergency or a major Presidential disaster declaration, the Federal Coordinating Officer has the authority to execute the Stafford Act.

Ms. NORTON. Who has the authority, the Federal Coordinating Officer?

Mr. FUGATE. Yes, ma'am.

Ms. NORTON. So what is the Principal Federal Officer, highly paid official, doing on the ground, and how am I to know if I come from out of State who is in charge?

Mr. FUGATE. Under a Stafford Act declaration, it will be the Federal Coordinating Officer who is authorized by the President to support the Federal response on behalf of the request of that Governor.

Ms. NORTON. Say that again. I am sorry.

Mr. FUGATE. The Federal Coordinating Officer, on behalf of the President, is authorized under the Stafford Act to coordinate—

Ms. NORTON. How do you make this distinction to State officials, to ordinary citizens on the ground, and why does the—if, in fact, the President of the United States has confidence in the Federal Coordinating Officer, why would it be necessary to pay somebody else to be on the ground, to report to the Department of Homeland Security?

Mr. FUGATE. Madam Chairwoman, I will defer back to the Agency. My focus is, again, under my authorities with the Federal Coordinating Officers as appointed by the President, when there is a declaration that is clear, that they have the authority on behalf of

the President to coordinate the Federal response as well as administer the Stafford Act.

Ms. NORTON. After the Congress passes a statute, sir?

Mr. FUGATE. I am not disputing that. I am stating that under my purview, I appoint or make the recommendations of who the President will appoint as a Federal Coordinating Officer under the Stafford Act. The Principal Federal Official program is not something that FEMA—is not something that we administrate.

Ms. NORTON. Let me indicate that the Appropriations Committee supports our view, it would support it many times over now, that we don't have money to spend on another top layer beside the top layer that is already there. We have never had a satisfactory answer to why there should be two people on the ground, particularly after Hurricane Katrina, which gave us a disaster that way, and we don't intend to tolerate it any longer. And if we find that such an officer is funded, we will ask the Appropriations Committee to defund it. And we will expect this administration to abide by the mandate of Congress.

I am going to go to Mr. Cao and ask if he has any questions before I proceed further.

Mr. CAO. Mr. Fugate, I appreciate in your testimony that you mentioned teamwork, that FEMA is not actually a part of a team. I have noticed that after Katrina there was a lack of teamwork among the different Federal agencies. I am not sure what kind of steps you have initiated in order to better coordinate between your office and the other Federal offices and agencies.

Mr. FUGATE. Right now, Congressman, obviously my greatest challenge is the next disaster, working closely with our Federal partners such as our Department of Defense, NORTHCOM, working with National Guard Bureau, working with other elements.

But I think some of the other part of that teamwork, hopefully we are starting to see some daylight in the State of Louisiana. We have worked with the State. Secretary Napolitano obviously has been there. My predecessor, the Acting Administrator, Nancy Ward, made some significant personnel changes there to begin moving forward, to begin that process that oftentimes was seen as a State, and the Federal Government and the local governments not being able to move forward.

We have been working on our part to resolve those issues, to move forward, get projects committed, to move the money and begin that rebuilding on those projects that had been in dispute. We have been working aggressively to address those challenges.

But I think the—part of the discussion I have heard, that is the state I was very much aware of, was that oftentimes in a large-scale disaster, catastrophic disaster, there are other programs besides the Stafford Act that could be brought to bear. It works best when it is done looking at what Stafford Act can do and other programs such as Community Block Development Grant dollars working together to address community issues. And I think when you go back and you say what are some of the lessons of Hurricane Katrina was the fact that in many cases we did not do a good job in looking at all of our Federal programs, matching those up with the needs of the community, and oftentimes looking at only one or two programs, and not really having the ability to reach out across

the Federal family of programs that could meet those challenges or support the needs of those communities.

I will give an example with children. When we look at our plans—and we oftentimes write plans, and we forget that children can be more than 20 percent of the population—but if you look at children issues, there is not much in the Stafford Act other than talking about facilities and some things that really get to that. And I am not sure that we are the experts on that.

There are other Federal programs that every day have funds that go to local communities, support day care and other issues. We should be looking at how we partner with these Federal funding sources and build that team so that in the disaster FEMA is not having to recreate a system that already exists. We are part of a team that can leverage that and provide assistance and work with those Federal agencies that do this every day in the communities so we can meet the needs.

And that is really what I think as far as building a team is not going back and creating a new program if we already have one, but making sure that we are leveraging those programs with—those programs that FEMA has with programs that exist every day, and, when disaster strikes, making sure we on the Federal side are working as a team to address those challenges.

Mr. CAO. One of the biggest problems that I saw after Katrina is a lack of a timeline and the lack of coordination between the different agencies. Let us take the issue of health care, for example. It is one issue just to simply rebuild the hospitals and the clinics, but it is another issue to basically provide an area with housing, with economic development. All those issues all come into play.

How do you see FEMA, for instance, as a partnership in that recovery process? And is there a better—should there be, for example, a point agency that possibly would have the power in order to coordinate and provide a timeline for the different Federal agencies to see who is responsible for what, when do they have to do it, in order to provide at least the area with a very clear path towards recovery?

Mr. FUGATE. Congressman, I believe so. I have often asked this question: What does long-term recovery look like if we are successful? And people can describe pieces of that. But it oftentimes seems to be hinged upon so many different aspects that I think you are right, there is no one single Federal agency that has all the answers.

Knowing from the perspective of FEMA and the tools that we have, we obviously need to be a better partner with the rest of the Federal family. Whether that long-term recovery mission resides within FEMA or resides with another Federal agency, I think we all have to look at—as you pointed out, some of the things that have to occur to say we are moving forward is addressing housing. If you look at FEMA's housing programs, they are really shelter programs. If we don't have a long-term affordable housing solution at the end of 18 to 24 months, we end up keeping people in what should have been a much shorter time frame in sheltering operations that we end now 3, 4, 5 years later.

We still have about 2,400 folks that are in temporary housing units. These were really shelter programs that should have had an

outcome that said at the end of that time frame we had enough affordable housing on board to make that transition out of that sheltering program, and when it didn't occur, we were still keeping people in what should have been a much shorter time frame. But we didn't have that follow-on.

That, I think, is where we have to do a better job both at the local, State and Federal family is describing the outcome and then going back on the Federal side and identifying who has already got existing authorities, resources and capabilities. And then oftentimes when we look at funding mechanisms, it is not necessarily just funding the Stafford Act, but looking at the other Federal programs that would make more sense to provide that capability to them and that disaster response, that they have the programs that can actually deal with longer-term solutions versus many of FEMA's programs, which are based upon a shorter-term response-like activity or rebuilding activities based upon damages that occurred as a direct result of the storm.

Mr. CAO. I have one last question to ask you, Mr. Fugate.

After speaking to different people, more or less, and we come to an agreement that the Stafford Act does not prevent FEMA from reaching a lump sum settlement in order to speed up the recovery process, I know that recent law allows for FEMA to initiate an arbitration process. But then the arbitration process, in and of itself, is a project-by-project arbitration which, at the same time, does not, at least in my view, speed up and allow the State and local municipalities the flexibility to coordinate the recovery process.

Are you in the process of looking at ways that we could try to settle—allow a State or city agency to settle with FEMA on a lump sum amount and then, from there, allow the State and local governments the flexibility to have them initiate a recovery plan as they would see fit for their own communities?

Mr. FUGATE. Well, there are two options here. One is to design a program which looks a lot like Community Block Development Grants. We do an estimate, we write them a check, and we are done. The problem with that is, often disasters are so complex, we don't know enough initially and we oftentimes keep going back.

I think a better option—let's take a school system; let us take the Jefferson Parish school system or the Orleans Parish school system, and instead of writing each building as a project, what if we wrote the district as a project or the campus as a project and gave them more flexibility within those structures?

I think the tendency to look at every item, every building as a separate project work sheet is not something that necessarily lends itself to the flexibility that you are asking for.

I have asked staff to go back and look at: Do we have the tools, can we with the Stafford Act and the CFR do things that allow us to write projects based upon a function, not necessarily each piece of that function?

An example you raised was police stations and fire stations. We treated each of those as an individual component. What if we stepped back and said, let us look at Orleans Parish and look at the fire department for the city of New Orleans as a project. Do we have the ability to step back and not try to recreate it station-by-station because that may not be the need, given the change of pop-

ulation and the rebuilding schedules? It may be more important to do other things within the overall framework of what is impacted, what is eligible, and how do we move forward.

So we are asking the questions, what is the best way to approach that, and then look at if we cannot get there with our authorities that we have under Stafford, under CFR, then that would warrant discussions back to look at whether Congress would like to provide any additional guidance to us under Stafford.

Mr. CAO. Thank you very much.

Ms. NORTON. Thank you, Mr. Cao.

With a new administration, I think it is a fair to ask, are you, Mr. Fugate, in light of the broad bipartisan criticisms of FEMA since Hurricane Katrina and even recognizing statutory changes and some improvements of the Agency since, would not a wholesale overhaul of the Agency be in order at this time to ensure that it is a nimble, functioning agency?

Mr. FUGATE. Madam Chairman, that is definitely the prerogative of Congress.

Ms. NORTON. I am talking about administrative overhaul. I am not talking about anything that the statute would say, do. I am talking about the kinds of things that Congress expected to happen afterwards, based on the administrative arm it had in place. Or do you think that administrative arm is now functioning to the level that is required and does not need to have a look at its functions in every department, every aspect by a new administration, so change we can believe in?

Mr. FUGATE. Madam Chair, that is what I am doing. I have been here 2 months. I have been able to bring a lot of folks back in that bring in State and local experience. I will be looking forward to my deputy coming on board, if the Senate will confirm, with recommendation of the President, so we have a person with city experience. We have people that have worked in State government, and we are building our leadership ranks based upon people who have actually done this, been in the field, and have been customers of FEMA.

The other thing is, if you have ever seen our org chart, our org chart is far past any reasonable span of control and does not resemble what we do.

Ms. NORTON. What does it resemble?

Mr. FUGATE. It looks like a spider. Everybody reports to the boss and nobody seems to be able to figure out what we do. If you looked at the org chart, I doubt anybody could understand what FEMA does.

I am a firm believer that form should follow function. We should be organized by what we do. These are the steps that we are currently going through as we build that team, is to look at how we have been doing things and putting emphasis on outcomes, not process.

The other thing we have instituted is, there is this tendency to think we are going to know when the next disaster is going to be, which we know is not true. I believe the best way to prove my point and to demonstrate our competencies is through no-notice exercises that take us to the point of failure and to assure ourselves that we are learning the lessons from previous disasters and applying them

to both those threats we are familiar with and threats many people have never thought about.

I just recently left the Space Weather Prediction Center in Boulder, Colorado, which deals with geomagnetic storms and looking at the potential impacts of a major geomagnetic storm across our infrastructure. These are natural hazards that nobody has really addressed, that are far more trouble than people realize.

Ms. NORTON. What could cause us more trouble again? What are you calling them, please?

Mr. FUGATE. We have within the National Weather Service an office that is in Boulder, Colorado, that does nothing but monitor the sun for solar flares and geomagnetic radiation. In certain events, those storms can be so powerful as to impact, whichever part of the globe is facing the sun, power outages across most of the United States simultaneously.

Ms. NORTON. Can you point to examples of what you mean?

Mr. FUGATE. There have been solar storms so powerful that across northern tiers of our country, including Canada, there have been power outages with damages to infrastructure.

There is an historical record event of 1859 that if it occurred today would result in about a 90 percent blackout of the power system of whatever part of the globe is facing the sun when it strikes.

Ms. NORTON. How about the ice storms in the Midwest this past winter? Is that tantamount to a smaller version of what you are talking about?

Mr. FUGATE. No, ma'am. Ice storms are a feature of the atmosphere, that is better understood.

The weather that occurs or what they refer to as the sun's activities, we currently are entering into what is called the next solar maximus of activity for solar flare, sun spots, and the potential for geomagnetic storms.

These events, based upon our vulnerability and our dependency upon satellite technology for communication, navigation, as well as our dependency upon the power grid, are the type of hazards that we have to expose to team, too, through exercises and training because, again, we know a lot about hurricanes, we don't know a lot about when the next disaster is going to strike and when it is going to strike. We will get there by doing exercises to learn about hazards, but also to make sure that the team we are building within DHS, within the Federal family and our State and local governments, are faced with challenges that push us to the point where we are not just building a disaster response team for the things we are capable of, we are building it for the types of things that can impact this country.

Ms. NORTON. I am going to turn the questioning over to Mr. Diaz-Balart, but what you just described, is it as a result of climate change?

Mr. FUGATE. No, ma'am, this is just our sun.

Ms. NORTON. Our sun has been here all long. Why haven't we had this?

Mr. FUGATE. Because our technology becomes increasing more vulnerable as we are more dependent on satellites and infrastructure that is vulnerable to geomagnetic storms.

Ms. NORTON. Who is studying that, sir?

Mr. FUGATE. The National Weather Service and NOAA, as part of the Space Weather Prediction Center, has been doing this. It is one of those programs that has been up, it is not well known, but the impacts, definitely within the industry, are well known, particularly in the satellite industry.

It is something that when we send up our satellites, we plan for. In fact, the space station is one of the prime customers because during certain radiation storms, astronauts have to move into a safe location on the satellite to be protected during the storms.

Ms. NORTON. And, of course, we have had outages that have taken out great parts of the United States.

Mr. Diaz-Balart.

Mr. DIAZ-BALART. I thank you. I had to step out for a phone call I had to take.

You already touched on this in general terms, but I want to make sure that I understand it. If Florida were to get hit by the great Miami hurricane again, would DHS send a PFO team to Florida? And would that PFO or the FCO be in charge of coordinating the Federal response? And would the PFO report to you or the Secretary of the DHS?

Mr. FUGATE. As I understand it, there would be a Federal coordinating officer appointed, and we would coordinate that response through the Stafford Act.

As to that Federal coordinating officer, if you remember back to Hurricane Andrew, the President made the decision to appoint a Cabinet official in that capacity to be the Federal coordinating officer.

So oftentimes it depends on the scale and expertise of that disaster as to whether or not it would be a staff member that is routinely designated to go out on disasters. It could be a regional administrator; I could find myself in that position. But it is the President's call as to who he appoints as Federal coordinating officer.

But those authorities, under the Stafford Act and the Post-Katrina Emergency Management Reform Act, would be vested in that Federal coordinating officer to manage that response and to serve as the point of contact with that governor in supporting the governor's request for assistance from the Federal Government.

Mr. DIAZ-BALART. I understand there are different circumstances that will take place. But again, let's assume that it is a storm, a regular storm, not quite as big, like maybe the 37 that you had to deal with in the last couple of years in Florida.

If a PFO were sent, would the PFO report to you or the Secretary? And that is assuming that the PFO would be sent. And would there be a PFO sent? Congress has had an issue with that.

Mr. FUGATE. Congressman, under the Stafford Act and under the Post-Katrina Emergency Management Reform Act, it has been very clear that there would be a Federal coordinating officer who would coordinate on behalf of the Federal Government.

The principal Federal official program does not reside within FEMA, so I cannot speak to that. My understanding is that the Federal coordinating officer would be the point of contact and would be the principal implementation for Stafford Act and would serve on behalf of the President to coordinate Federal assistance requests from the governor.

Mr. DIAZ-BALART. Our concern is precisely that, that there is a sense that it is outside of FEMA; and who is in charge? I understand that you think, obviously, and we believe that you are right about that, but I want to make sure—I guess it is not a decision that you will make, but I want to make sure, if there is a storm, and all of a sudden a PFO is sent out there, who is in charge?

That is one of our concerns. I guess that is not a decision you would make. I want to make sure that you would be in charge and not somebody else from this outside group that, frankly, we are not even too sure what they do.

Mr. FUGATE. I report to the Secretary and I serve as the principal adviser to the Secretary and the President on emergency management.

Congressman, you know what I did in Florida, the team we built; and I think that is the thing that I really want to focus on. And that is that the individual is less important than building the team. If we build a good team, I think a lot of these issues become secondary to our response. But if we don't have a good team and we are operating separate entities, trying to assist a State, these issues then become things that we will have to deal with.

Mr. DIAZ-BALART. Absolutely. And hopefully we can deal with them before that happens.

Kind of in the same vein, I am trying to understand how it really would work. We know there are a lot of steps being taken to prepare for the possible resurgence of swine flu, that pandemic.

So HHS is the lead for managing the medical crisis; we understand that. DHS is responsible for managing the consequences.

Now, would DHS use FEMA's response team and regional offices to manage the consequences, or would DHS send a PFO team or various PFO teams to bypass FEMA, and would they again report to you as the Secretary?

I go back to the same issue. Specifically, if that were to happen, how would that work?

Mr. FUGATE. If we are outside of the Stafford Act, the Secretary is under HSPD-5 on behalf of the President, is coordinating the rest of the Federal family in support of HHS and dealing with issues that, again, were not under Stafford Act declaration.

That is a real potential here with this H1N1. If it does not reach the severity that would warrant a Stafford Act declaration, you want to have the ability—which is not vested in FEMA; it is vested in the Secretary—to coordinate on behalf of the President in those types of non-Stafford Act events.

This goes back to other questions when you are dealing with things like the national party conventions or you are dealing with G8 summits where you don't have a disaster or a declaration, having that ability to provide the coordination across the Federal family is one of the mechanisms and one of the tools that exist under HSPD-5.

Mr. DIAZ-BALART. Is there anything preventing the Secretary from using FEMA outside of the Stafford Act? Can they use FEMA outside of a Stafford Act declaration?

Mr. FUGATE. Absolutely. As part of one of her components, we do work actively on those issues. We bring a lot of resources to the table. In fact, there are capabilities, when it is a Federal response

not requiring a Stafford Act on behalf of a governor, where FEMA serves as a coordination role supporting a lead Federal agency, such as NASA, such as HHS, when warranted.

But again, you look at what resources we bring to bear, how we apply that. And again, our primary capabilities are coordinating on behalf of a governor's request of the resources of the Federal Government, administering the Stafford Act.

When you look at FEMA itself, our response capability, other than the coordination mechanisms, is limited because we use other Federal agencies, private sector and nonimpacted State and local governments, as the responders in a disaster.

Mr. DIAZ-BALART. Because of precisely that, why not use FEMA if FEMA is available, number one.

Number two, I am trying to—and I am asking the questions, and you are obviously giving very direct answers, as you always do. But my concern is, we have basically two separate structures for managing disaster; we have FEMA and then we have this DHS separate structure.

Are you going to be looking at those structures as you are looking at the rules and regs dealing with FEMA? Are you going to have the opportunity to look at those two structures and come up with recommendations to see, again, if there is a problem, how we can streamline it and make sure there is no confusion for State and local officials? And we know there already is, because we have heard that from them; I am sure you have heard it as well.

Maybe on the State level, you were one of the ones giving some of these complaints. Are you going to have the opportunity to look at that, or is that something that is not something that you are going to be able to look at and that we need to continue to push the Secretary on?

Mr. FUGATE. Well, to be fair, FEMA is part of one of the Agencies planning for H1N1. We have been engaged. We are not sitting outside. We are part of that team.

I think the second thing you need to understand is, this hit at the transition of the new administration coming in. The decision was made to go forward with a lot of the existing structures because, when the first wave hit, many of the team had yet to come on board. We were using the existing plans to deal with the crisis.

I think, as we have come through that and we are looking at a second wave, we are continuing to examine how we are doing things within DHS; and I think that is a process by which the Secretary is very much aware of the challenges we face to better integrate all of our resources together.

So to be fair, we are part of the H1N1 planning.

Two, H1N1 struck at the very beginning of the new administration where they did not have many of their staff on board. And so they went and made a wise decision, I think, to utilize the existing planning documents and the concepts of operation. They have since been looking at how to improve those as we go forward.

Planning is a process, not an outcome that you necessarily get done. I think we are very much working on that process of how to best coordinate across a variety of threats where there may be different agencies that have leadership roles that won't always fall into the purview of a Stafford Act declaration.

Mr. DIAZ-BALART. I understand that. And this may seem like a great logical topic for the quadrennial review of the Department.

Again, as you have heard, this is something that is nonpartisan. Madam Chairwoman has actually gone to the point of writing the President. We just want to make sure that there is no confusion, that—there obviously is right now, because some State and local officials have told us there is.

So again, if it is not something that is going to be looked at, and if it is something that is going to be looked at, then we feel—it would make me feel more at ease, but it is obviously something that has to be looked at to make sure that there is no confusion in the chain of command.

Mr. FUGATE. I understand.

Mr. DIAZ-BALART. Thank you, sir.

Thank you, Madam Chairwoman.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart.

This is one we have hammered so much. It needs to have a nail put right in it so it doesn't have to be brought up again. I appreciate your response.

Let me be clear. We are not objecting to anything that the Secretary would do in a non-Stafford Act event so long as there is not a Federal coordinating officer appointed. We are objecting—and remember who appoints the Federal coordinating officer; the Secretary, as far as I know. So it is in her power to appoint somebody who knows the difference and knows how to deal with being on the ground.

It is not unusual, just not unusual in the Federal system, for agencies like HHS, which has very many assistant secretaries. These people have learned how to relate to the Secretary at the same time that they fulfill their statutory obligation.

And the Committee is objecting to being ignored and having to go to the Appropriations Committee. And they say, we asked for it be defunded this year and our information is the Secretary wanted it funded, and we don't care what she gets funded as long as that is not a Stafford Act notion. And as long as she makes that caveat, we are on the same page.

If not—a needless fight started in the last administration and continues in this administration. That is a lot of wasted time; we have too many things that we have to do.

Among them, talking about leftovers from the last administration, would you give this Committee a report on one that sent both sides up the wall when we learned as we were dealing with the stimulus that there was \$3.4 billion in outstanding disputes between the State of Louisiana and FEMA, led to an outsized response from the Senator from Louisiana to have the President appoint arbitrators. That is how bad it had become.

We were very embarrassed by it, frankly, when most jurisdictions were begging for the kind of money that—FEMA had not even gotten to the appeal. The problem was at the point of decision, and nobody had sat down to look at the various ways that the Federal Government and others have solved such disputes.

So we would like to know, what is the status of the \$3.4 billion dispute? Has any of it been disbursed and how much is left of that amount at this time?

Mr. FUGATE. Madam Chair, I can give you some of those numbers; and some of those numbers I would like the staff to update, because it is an evolving process.

I asked the same question when I was originally briefed on the \$3.4 billion outstanding by the State of Louisiana. I asked, what exactly are these projects?

They said, this probably is more based upon their concern that current projects being written will end up being appealed.

I asked, how much is being appealed right now?

That number is roughly half a billion that is actually in the appeal process.

Many of those are working through the system through a group that we set up with the State of Louisiana, that were very senior policy, very experienced at looking at the Stafford Act; and many of those are now being sent back down to the staff with guidance to move forward on.

But the \$3.4 billion in asking for—show me which projects are in that process, what I have heard was that this was based upon outstanding project work sheets yet to be completed, that the concern was there may be appeals there.

But what we have currently in house that the State of Louisiana, through their local subgrantees that are appealing, is right at half a billion. The others may yet be to come.

Ms. NORTON. Half a billion is on appeal, at least \$3 billion is in dispute, and the notion that we would even discuss with FEMA things like ALJs, people who, upon agreement of parties for the procedures used, would then break through this so the State of Louisiana—and there was a similar amount, not as high, outstanding in Mississippi—could get on with it. This is one deadlock that we need to see broken right away at a time when the economy is on its knees everywhere, including in the States of Louisiana and Mississippi.

What is being done to break the deadlock between FEMA and the State of Louisiana on the \$3 billion still in dispute?

Mr. FUGATE. Madam Chairman, as we go through the outstanding projects that are being written, we have set up a team with the State in Baton Rouge at a very high level.

Ms. NORTON. So that team consists of the parties—

Mr. FUGATE. Of our staff and their staff who are working through the issues.

Ms. NORTON. As I explained to you when you paid your courtesy visit, each of these parties has a structural problem. I am going to lay this on the record so everybody knows what our concern is.

This is a structural problem. Your mandate is to keep Louisiana, to keep Mississippi, from getting too much money. The mandate of the State of Louisiana and the State of Mississippi is to get as much money from the Federal Government as they can. Therein lies the deadlock. So as long as you have got people with a structural problem still at one another, I am not convinced that you will break the deadlock.

What is your objection to having all parties agree upon a procedure—like, for example, several States have agreed to solve similar Medicaid issues involving much more money. What is your objection after both parties have a say, final say, as to what the proce-

sure will be for getting others to break this deadlock, considering that you are keeping \$3 billion from the citizens of Louisiana, and there is very little progress made in the 6 months since we discovered this outstanding amount, most of it before you came in?

But guess what, Mr. Fugate, it is going to be your \$3 billion unless you can give us timetables for getting this \$3 billion moving through the system. And then, if we see hang-ups in the appeals system, then we are going to wonder why in the world can't the appeals be settled.

The problem is to get money to people on the ground, to get it on the ground now when the State needs it more than ever you because of a combination of Katrina and the worst economy since the Great Depression. I need to know what you are doing with the \$3 billion to break the structural impasse.

Mr. FUGATE. As I said, Madam Chair, we are working with the tools I have, and I am looking forward to the ability to bring in a panel to give final adjudication of those disputes for the State.

Ms. NORTON. Will that be an independent panel that both parties had agreed upon, sir

Mr. FUGATE. Yes, ma'am.

Ms. NORTON. Thank you very much for trying to do that.

I think you see the structural problem. There is no way to argue that we can ease up on Louisiana and Mississippi a little bit; because we have been at this for a long time, there is no way for you to do that with any integrity.

And there is no integrity for the Governors of Louisiana and Mississippi, to the greatest extent possible, to press you for every dime they can get, especially now. They want even more dimes than they could have gotten if they had solved that 2 years ago when the economy was not as bad as it is today.

We are frustrated with the Agency not seeing the structural defeat. We are saying, we would like in 30 days to know what procedure you will be using with some kind of third party with procedures both parties have agreed to use. If any party can't use it, then it is not on the table.

With what set of actors? It is not as if we are asking FEMA to invent something the Federal Government has never done before. We are impatient because other agencies with far more money have found ways to break impasses rather than leave people without the money Congress has appropriated them, if I may say so, sir, years ago. Years ago. It is unconscionable.

Within 30 days, we would like to see, what is the procedure? What is the name of the group or panel? When will it be operative? What are its benchmarks? And similarly, what are the appeals procedures? What are the benchmarks for the appeal procedure, as well?

My impatience reflects the amount still outstanding.

You have indeed moved us somewhat forward, because at least you acknowledge there is a structural problem. We could not even get the prior administration to acknowledge the structural problem. That is what sent the Senator from Louisiana to the President with, okay, you will set up an arbitration panel. Watch out for her, because the next move, she is going to give him a certain number of days to set up an arbitration panel.

So we have to work this out. We can with a new administration and everybody intelligently understanding what the problem is.

First of all, I appreciate what you said; it is just the kind of breaking through of a bureaucracy when you talked about what we are putting your staff through. People have to understand what the staff has to do in order to break this impasse. It has got to say, as we look at this structure—which, by the way, the State may have not looked at in decades—we must ascertain how much of this is due to lack of repair and how much of this is due to storm.

I submit to you, Administrator Fugate, that is an impossible task. Yes, ultimately, it is a judgment. You can put everything you want to on the table, but to come up with a figure is to come up with a proxy, an imaginary figure, a figure that everybody can agree upon, not a figure with a basis in fact. One would have to go back and do the kind of nitpicking, small kinds of calculations that ultimately nobody would have any confidence in.

So when you say that you are bringing to the table a kind of different vision, that is what we are looking for the Agency to do, as difficult as it is, where you say, look at the project.

If you could just—and you mentioned that in passing in one of your answers. If you could just say something further about that. It was very refreshing to hear, because it means when you see a problem, you see it may be structural. You said, wait a minute, let's put fresh eyes on it. Try it with a pilot project, but don't just keep going at it as if, if you keep doing the same thing the same way, you are going to get a different response.

Would you just lay that out a bit, the project notion versus the present notion, the one that you are considering at least?

Mr. FUGATE. Absolutely, Madam Chair.

I think one of the challenges that I have is, I am not interested in getting money down to the State, I am interested in what the project is.

If you have a fire station that is destroyed by a disaster, the uninsured elements which are eligible under Stafford Act for replacement, what you are actually doing is you are rebuilding a fire station. The maintenance records, which may have been destroyed in the original disaster, and the fact that there is no fire station are what is going to drive the project. We are going to replace the fire station if that indeed is what the community wants.

Ms. NORTON. What do you do about the fact that the State may have some responsibility?

Mr. FUGATE. If that project is eligible, the State has their responsibility as the grantee supporting that local government, the sub-grantee, through that grants process. But we should not be adding to that burden on issues that do not get us back to the original project which was, if the station was a government function and it is eligible for assistance and there are uninsured losses, then in this type of an event we should be looking at what it will take to rebuild the fire station versus looking for things like maintenance records which didn't exist because they were destroyed as part of the disaster.

Ms. NORTON. Thank you. Enough said. If you are moving in that direction, we would be very pleased.

Let me ask the Ranking Member, before I go further, if he has any further questions?

Mr. DIAZ-BALART. Actually, thank you, Madam Chairman. I really don't.

But I just do want to reemphasize, I think the President found the best person in the entire country for this job. And that is why I am so insistent on making sure that we have a clear line of command, and the person who knows what he is doing, is the right man at the right time, who is the best in the country, if we have, when we get hit by another catastrophe, we don't learn then that he doesn't have either the resources or the right chain of command and there is confusion.

Because we do have the right person right now in that important Agency, as I think it is very evident just in the time the American people have had the opportunity to meet him.

Ms. NORTON. Thank you very much, Mr. Diaz-Balart. Certainly he has gotten his spurs in a part of the country that has seen disaster after disaster. We are seeing evidence of that experience in responses we are getting today.

Let me ask you about the last war, the complex that all of us have to a certain extent. That is, some complaints that FEMA has overcompensated with fighting the last war when it sees another disaster before it, and that it is doing what you would expect it to do—kind of lean forward, try not to have happen what happened last time.

But we had testimony before this Subcommittee on, for example—the place, I think it was Louisiana—that was drowning in ice. We had indeed some word that Florida had to ask the Secretary of Homeland Security to stop sending aid that the State had not asked for.

Would you speak to us about overcompensation by FEMA? Has it occurred, and what would you intend to do about it while preparing, while leaning forward in the event of a new disaster?

Mr. FUGATE. Madam Chair, having been probably one of the folks who was very concerned about how we were approaching the aftermath of Hurricane Katrina—and in some cases, I think, supplanting the role of local and State government—there is a danger. Yes, the Federal Government can do more. Yes, the Federal Government can do a lot of it. The problem is, if locals and State governments are not full partners in doing everything they can before requesting Federal assistance, in a large-scale, multi-State disaster, there may not be enough if the only player in town is the Federal Government.

Behind me is a lot of that team, both local and State government. I think to avoid this overcompensation nature, you have to build a team that relies and trusts upon each other to work effectively as a team and not second-guess or question. If David Maxwell, the director in Arkansas says, this is what my governor needs, that is what I should focus on.

Yes, I am going to anticipate. Yes, I am going to plan ahead. I don't want to leave Dave Maxwell hanging if he has a request that I haven't thought about. But I should not be second-guessing him and responding outside of working with him as a team. Team members don't do that; team members work together.

We are talking. We are working as a team, so that you are not supplanting each other. We may be anticipating, if we see something coming, so when that request comes, we are not delayed in getting that help.

But a real team does not second-guess and go in blindly.

Ms. NORTON. And you felt free to ask the Department not to send, until requested, certain resources to the State?

Mr. FUGATE. Yes, ma'am. That was, in some quarters, taken that I was anti-Federal. The reaction was, I think, probably—

Ms. NORTON. The taxpayers of the United States thank you.

Mr. FUGATE. But I was looking at it more pragmatically. States are going through very tough fiscal times. If the Federal Government is stepping up to the plate at every disaster, States are less and less inclined to fund those programs they should be funding. We will further dilute our capabilities of this Nation to deal with complex disasters.

People forget that most of the resources that actually responded to Hurricane Katrina were not Federal resources, they were National Guard and local and State law enforcement, fire departments, paramedics and other first responders across this Nation.

If we continue not to leverage the capabilities of State and local governments, we won't have the resources the next time there is a disaster, because we have built everything upon the Federal Government doing everything at such low levels that when States face those hard budget choices, it is easy to go, somebody else will take care of us, instead of taking the steps that many States do, even in the face of very adverse budgets, to build and maintain their capability to respond to their citizens, with our role supporting that, but not supplanting that primary responsibility the governors have in their States during disaster.

We don't believe in the domino theory where each level of government has to fail before the next level kicks in, but we do believe we have to be a team and that team means, everybody comes into the game so play as a team, not depend upon only one part of the government to make sure that we can meet those needs when disaster strikes.

Ms. NORTON. I just have a few more questions.

About every couple of months, the national press—all over the United States, you see a story on, let us call them the last, most vulnerable victims of Katrina who are still in trailers. Would you give us a status report on where we are with placing these last victims?

Before you came into office, HUD testified that they had housing for each and every one of the victims of Katrina. Neither HUD nor FEMA had broken down who we were talking about—how close they were, whether they were disabled people, whether they were people waiting to build their homes, just who they were in the first place. And so they have them all lumped together by the press.

How many are there? How many are left?

Your predecessor, just before leaving office, promised this Committee nobody would be put out in the street, but of course eviction notices might go out. The Committee does not object to that. We are not saying that you should violate the Stafford Act and keep people receiving Federal funds in perpetuity, but we would like to

wipe the slate clean of the last victims of Katrina, knowing that they are someplace that is appropriate for them.

Mr. FUGATE. Right now, there are approximately—a little under 2,400 families that are still in FEMA housing. We have been working aggressively—

Ms. NORTON. Most of these are trailers?

Mr. FUGATE. Some are trailers, some are mobile homes.

-- but again, working to do case work. We were working with the State of Louisiana. We were able to enlist one of the other partners. They told me that they would like to do this as part of the team to help in the transition.

But I think your point is well taken. There is an end to these programs. The FEMA program for shelter programs, they were not designed to be long term. So we have to actually make sure that we are doing the case work to identify that the resources are matched up with the needs of those families. But we also have to bring conclusion to that process.

I faced this in Florida where, again, many of those challenges had to be worked, one on one. And in some cases, it literally took the final notice that there was no longer going to be Federal assistance for people to make the decision to move on versus those people who did not have that option and needed to be moved into other programs to provide that long-term housing solution.

So part of doing that case work is there is not one size fits all; it has to be based on where that family is. Are they going to get back in their home? Are they going to need other options?

But there is a point where you have to have closure to what the options will be; and at some point where people have said, I refuse that assistance, we have to be able to close that program.

Ms. NORTON. You don't have a right under the Stafford Act to be where you were before, to be close to work. All of that brings hardship, but not hardships sufficient to keep you on with Federal funding forever.

I understand from staff that you have submitted a breakdown, and we will look at that breakdown and continue to work with you.

This large question that I pose for you—in light of your deep experience, we felt that we could pose this question to you about a catastrophe or catastrophic disaster. And I want to ask this question because we need to know whether the Stafford Act, that we have relied on since 1988—is it 20 years of reliance on one statute, very broadly framed, which seemed to encompass almost everything you can think of—whether or not in light of the experience after Katrina, in light of the experience after 9/11—terribly catastrophic even though it involved relatively less area and even fewer people when you consider Hurricane Katrina—in light of that experience you, Administrator Fugate, you are a deep thinker in this area.

We don't want to be caught with the notion that nobody knows what a catastrophe is—and maybe we do under the statute; we have no opinion at this point. But we don't want people running to us and saying, see, we have a whole lot of people, too; let us count them for you. We need to get all of that extra help that you gave to Louisiana and Mississippi, and they will do it.

You heard perhaps Representative Loeb sack, gave us a whole new standard based on the budget of the city or, for that matter, the State. That is going to happen when people see what, in fact, we had to do in Katrina. We had to pass a post-Katrina act; we even had to pass a bill that never got through the Senate—which makes me think we may be violating the Stafford Act—to try to give some additional assistance to Louisiana and Mississippi.

I think ultimately we did give them—and, of course, that happened through statute; we waived the State match. But the other parts of it that were in this act that didn't get passed came as a result of testimony from people from the area. And the testimony was given on the basis that we are talking about one-time-only Katrina stuff where you find that the residents or the State or the city cannot move, cannot act, because FEMA isn't sure what it is authorized to give in this kind of situation.

So we want to ask you, should Congress begin to look toward describing what a catastrophe is, by definition, some kind of definition or guidance, whether this is warranted? Should we look toward the kinds of consequences and objective benchmarks that would guide all concerned? Does the President need authority that would send from the top the notion that this is an extraordinary event?

Have you given any thought to that, or do you think we should be giving thought to it at this time?

Mr. FUGATE. Madam Chair, usually when I hear these discussions, having been in this for a long time, I break it into two things. Am I looking at cost share as to what that threshold should be when we go to 100 percent.

Ms. NORTON. That would only be one of the things.

Mr. FUGATE. That would be one way to look at it.

The other way to look at it is, if we look at our system, we don't reward States that do more. Our cost share starts at 25 percent State and local, no less than 75 percent Federal share, and we have the option to go up to 100 percent. Those authorities are vested under the Stafford Act; it is what triggers the next level. We use a per capita impact to go to 90/10.

Obviously, Katrina was off the scale. It made sense.

But oftentimes I find that we don't look at it from the standpoint of not only the consequence but, how much more is the State doing with their own money that is offsetting the cost to the Federal Government. Yet they are only going to see their cost share go up when it reaches a certain per capita, or in a very tight, narrow part of that disaster.

So I am looking at, how do we look at cost share not only when it warrants it because of the size of the disaster, but how do you use it as a capability of encouraging State and local governments to do a better job of managing disasters?

I got asked this question a long time ago by a very wise man, the late Lacy Suiter, he was one of the associate directors of FEMA. He asked me, Craig, is there anything Florida couldn't do if FEMA reimbursed the State for it?

And I said, not much. So that is part one.

The second part is, do we wish to have only one program to administer in a catastrophic disaster, to take care of everything, in

which case you need to expand the Stafford Act dramatically? Or do we want to look at the existing Federal programs that are already there, such as Community Block Development Grant dollars, and look at how we build a system that takes greater advantage of existing structures and existing authorities, and make a better plan to integrate Stafford Act and other Federal organizations—including, in many cases, USDA from the programs they have in the rural States and rural parts of States—so that rather than create new structures and new mechanisms in a disaster, we will look at what we already have.

Ms. NORTON. Would those be for, not the temporary assistance, but ongoing assistance?

Mr. FUGATE. Yes, ma'am. Let us take the HUD example.

Most of what you see with the FEMA programs is very short term to buy us time. Yet if there is not going to be housing at the end of the FEMA programs, we are unable to get out of a temporary program. So you need to recognize early in a disaster that the housing that will be available at the end of the FEMA programs would not be sufficient to provide a long-term solution.

Ms. NORTON. So we hand off responsibility past the temporary to another Federal agency to decide what role and what funds are appropriate; is that what you are advocating?

Mr. FUGATE. Yes. If you approach it from the standpoint that you want Stafford Act to be all of these things, that program needs to grow, and you will create structures that usually won't be implemented until a disaster.

Ms. NORTON. Consider this. Suppose an administrator of FEMA could decide that on his own and say, at this point the Agriculture Department should be responsible for this or HUD should be responsible. Do you think we need authority within FEMA so there is no doubt, no bickering or exchanges about who really should now take over among agencies?

Mr. FUGATE. Madam Chair, before I commit that FEMA would be the most logical place, I think you are correct in looking at, in those programs that go beyond Stafford Act, that go across a variety of Federal agencies, should there be vested a coordinating role and who would be best to do that.

When you look at what we have been charged with at FEMA in the long-term recovery components and doing those plans, one of the things that I am trying to drive is not only what does that look like—and I have used a very simplistic definition to make my point, restore the tax base to what it was or greater than within a 5-year period—so we start driving a process that looks at not just trying to get somewhere by throwing all of these programs and pieces together, but to define where we are going in such a way that local officials understand and can start looking at how we drive programs to reestablish a tax base.

If we rebuild a fire station under the Stafford Act, but there is no tax base to support the operation of a department, have we changed the outcome?

So it goes back to, I cannot get there if I don't have long-term housing solutions, which is not what the Stafford Act does. I can't get there if we haven't been able to rebuild a job base. And if we are in a transitional economy where the jobs that were there may

not be the jobs that will be there at the end of the recovery, I again have not changed that outcome.

Hurricane Andrew is a perfect example of what happened in Florida City and Homestead. We spent millions of dollars down there in recovery, trying to rebuild an economy that truly did not recover until the building boom pushed down to that part of the county. Many of those communities did not recover. The jobs from the Air Force base did not come back. That economy 10 years later had not made a significant recovery until the county growth caught up with that infrastructure.

Ms. NORTON. Mr. Fugate, in light of this kind of futuristic look we are giving, we are seeing Stafford Act and non-Stafford Act scenarios. Of course, the Stafford Act assumes a huge something called a "disaster" has occurred.

But I give you—and this is why the President may need to get into this—the swine flu occurred very early in the administration. Now I don't know for the life of me who bureaucratically should be in charge, but I know this much. They put the CDC up there because nobody wanted to hear from anybody else except somebody who had some expertise in flu.

Now, your scenario might apply—logistics, who does what and so forth. That is one of the reasons we are looking at not only the Stafford Act, but for that matter, the Homeland Security Act. Remember, CDC comes under HHS.

Now, technically, if it were a Stafford Act matter, FEMA has a huge coordinating role. But when you get into subsections, or whole Cabinet agencies, that is when you get into who should be stepping up to do something. If you get enough confusion, you can go up to the man in the White House and he will straighten it out.

We would like to have someone, Stafford Act or not, depending on—going to your notion of function, what is happening, who the public will have confidence in, then let others come in to play their often very critical supportive roles. But somebody needs to step up.

What happened in the swine flu episode, because the White House had the good sense to say, you know, swine flu, we have no vaccine, we have potential panic. Several agencies could be involved. To her credit, the Secretary stood up and restored confidence because she was one of the few Cabinet officers who had been appointed.

But to show you how sanguine the administration was, as it saw how the matter was developing, it realized that notwithstanding the enormous credibility of the Secretary, they had to have somebody who understood about flu stand up.

And then, because it was so early in the administration, they were still getting people through, they had to call upon a Bush administration official, as I recall, from the CDC, who did a superb job. He was a professional, and he spoke in ways that people could understand. That is awfully important. And he spoke with the background and expertise. The Secretary handed it off to him and everything went smoothly.

We would expect something like that to develop perhaps with some sort of further guidance.

I thank you, Mr. Fugate. We have put before you some of the ultimate questions facing us. We have been very pleased to hear how

deeply you think about these matters. We think that it requires deep and new thinking.

I suspect that when it comes to this cross-agency coordination, we probably ought to have somebody look at it beyond our particular agencies; and that is something that we want to give some thought to following this hearing, to hear what your thoughts might be on that notion to say that lead agency shall be X.

There might be a point where even a Stafford Act matter—look at what happened in Hurricane Katrina; in order to have anybody speak credibly, given how few resources were in place, the Commander of the Coast Guard had to stand up and speak out.

And it may change at various points. We don't care who is in charge; we just care that everybody understands who is in charge, that there is no bickering about it, no duplication, and we continue to move forward. I see that kind of clean thinking from you and appreciate your testimony, and I look forward to hearing from you again.

I will call the next panel:

Jane Bullock, former FEMA Chief of Staff, now with Bullock & Haddow; Francis X. McCarthy, Federalism, Federal Elections and Emergency Management Section, Congressional Research Service; Mitchell Moss, Henry Hart Rice Professor of Urban Policy and Planning at NYU; Donald Dunbar, Adjutant General, State of Wisconsin, who is testifying today on behalf of the National Governors Association; David Maxwell, Vice President of the National Emergency Management Association; Russ Decker, President of the International Association of Emergency Managers; Joe Becker, Senior Vice President, Disaster Services, of American Red Cross.

**TESTIMONY OF JANE BULLOCK, PRINCIPAL, BULLOCK & HADDOW, LLC, FORMER FEMA CHIEF OF STAFF; FRANCIS X. MCCARTHY, ANALYST, CONGRESSIONAL RESEARCH SERVICE; MITCHELL MOSS, HENRY HART RICE PROFESSOR OF URBAN POLICY AND PLANNING, NEW YORK UNIVERSITY; DONALD P. DUNBAR, ADJUTANT GENERAL, STATE OF WISCONSIN, TESTIFYING TODAY ON BEHALF OF THE NATIONAL GOVERNORS ASSOCIATION; DAVID MAXWELL, VICE PRESIDENT, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION; RUSS DECKER, PRESIDENT, INTERNATIONAL ASSOCIATION OF EMERGENCY MANAGERS; AND JOE BECKER, SENIOR VICE PRESIDENT, DISASTER SERVICES, AMERICAN RED CROSS**

Ms. NORTON. I am going to just go across as I indicated, starting with Ms. Jane Bullock, who was the former Chief of Staff, the Clinton administration.

Ms. BULLOCK. Madam Chair, Ranking Member, my testimony today is based on my 22-year career at the Federal Emergency Management Agency, culminating as Chief of Staff to James Lee Witt during the Clinton administration; and also drawing on the past 8 years, where I have worked with communities and non-profits in disaster management.

Throughout the 1990s, we worked with communities to respond and recover from over 300 Presidential disasters. Although we had many significant disasters, none of them became catastrophes.

The geographic scope and level of damage of these disaster could have made them catastrophes. For example, there was more infrastructure damage from the Northridge earthquake than there was in Hurricane Katrina. There was more geographic impact from Hurricane Floyd than there was in Hurricane Katrina. They were not catastrophes because, one, we built a strong partnership with State and local emergency managers; two, we had a Federal response plan that was agreed to by each Federal agency, including DOD, and executed under the direction of the FEMA Director; and three, we had leadership, from the President on down, committed to cutting red tape, being innovative, and not worrying about the price tag. It is within this context that I would like to provide some thoughts and suggestions.

In the immediate aftermath of any disaster, what individuals and communities want the most is to get back to normal. This return to normalcy often impedes the community's opportunity to rebuild better, safer, and more environmentally and economically sound. Furthermore, inflexibility in regulations on the part of the Federal Government programs tend to reinforce returning a community to its predisaster state.

It is in the government's best economic and social interest to support expeditious recovery and rebuilding of safer communities. But how do we do this?

First, I would suggest that the President should have the flexibility to request Congress's authority to waive certain regulations and statutory requirements in the aftermath of a catastrophic disaster, such as allowing for innovation in application, scope and cost of the Community Disaster Loan program. The CDL is an essential lifeline for communities to continue their administrative and legal functions after a disaster when their tax base has been lost.

I would also suggest allowing for waiving of match requirements for other programs, the assistance to individuals and household grants, and the hazard mitigation grant programs. This is obvious, as impacted States will not have the funds.

In the context of mitigation, community leaders and the public are most likely to embrace mitigation in the aftermath of a disaster. To take advantage of the public willingness, the Federal Government can provide the incentive by waiving the cost share. In Katrina, this was not done.

Ms. BULLOCK. And we all see the problems that people in communities are having in doing elevations of housing.

Rapid recovery of a community's infrastructure is critical to economic recovery. The current public assistance program is cumbersome and highly bureaucratic. After the Northridge earthquake we expedited funding of public infrastructure to jump-start the recovery. A similar approach or a block grant approach that removes the issues of pre-existing conditions, as we talked about earlier, will be absolutely necessary after a catastrophic disaster.

Second, Federal support for long-term recovery is confusing and scattered. Congress should request a Federal roadmap for communities as to what the Federal Government can do to help them recover.

Third, I would suggest establishing a pilot program that would allow certain high-risk, disaster-prone communities to receive fund-

ing to do pre-disaster recovery plans and strategies, which will significantly enhance approval of projects and hasten an economic recovery.

The private sector is a key to recovery. We need to break through the red tape to allow businesses greater access after a disaster, to make co-funding of projects and assets possible, and to provide more support to small businesses.

We need to re-look at the approach to disaster housing. The DHAP program shows promise, but will it work? We don't know. Why not use disaster housing resources to foster innovation? Modular green building? Why not take advantage of successful non-profit programs like Socialserve, which has State databases of available housing units in real time? And perhaps HUD and FEMA could work together to do an inventory of substandard housing in high-risk areas before the disaster.

Finally, I continue to be very concerned about FEMA being a part of the Department of Homeland Security. I firmly believe that this organizational circumstance will impede its ability to not only respond but certainly support long-term recovery.

I commend the Obama administration for appointing incredibly qualified individuals into FEMA, such as Administrator Fugate, Jason McNamara, Bill Carwile, Tim Manning, and Beth Zimmerman, and I know they will serve well. But their presence doesn't negate the bureaucratic issues that remain with FEMA and DHS.

DHS is a law enforcement agency with a Federal top-down approach. FEMA, on the other hand, works in partnership with State and local governments and the private sector to help individuals, institutions, and communities become socially and economically stronger through effective programs of mitigation, preparedness, and recovery. These very divergent missions require a different set of capabilities and, certainly, a different mindset.

The Post-Katrina Emergency Management Reform Act was intended to strengthen FEMA, put a fence around its authorities, resources, and missions. However, as has already been mentioned, very shortly after passage, the DHS Office of Operations Coordination was created and given functions that duplicate that of FEMA's. I would encourage the Committee to request that DHS explain how the DHS Office of Operations Coordination will function in a catastrophic disaster versus the FEMA operations center.

Another area that is of concern is that there were numerous incidents of the DHS general counsel overruling decisions made by the FEMA general counsel in spite of the fact that the rulings were made by experienced lawyers and were based on FEMA laws and disaster precedent.

Since DHS has centralized the general counsel function, there have been many concerns that, should a catastrophic disaster occur, interpretations of the law based on disaster precedent and the innate flexibility of the Stafford Act will be overruled by less-informed DHS lawyers. Consideration should be given to allowing the FEMA Administrator to have his or her own independent counsel.

We already discussed the issue about the principal Federal official. I don't think that this is an issue that has been closed. I still believe that there is intent to use the PFO. And I think the Com-

mittee should continue to look to questions relative to that, as the issue of Katrina was who is in charge.

Frankly, if we really want to address the issue of reducing bureaucracy for response and recovery in the next catastrophic disaster, the answer is to remove FEMA, make it an independent agency, re-establish a Federal response plan, not a framework, and create a national recovery plan.

Hurricane Katrina was a failure of leadership at all levels, but in spite of that failure, FEMA's staff would have made decisions and taken certain actions to correct the problems, but they couldn't because the decision approval process was at DHS.

While I recognize the Obama administration is very different from the previous administration and is committed to providing service to the American public, I still wonder and I am still concerned that very few things have changed and whether the process will work more smoothly as long as FEMA has to answer to the Department of Homeland Security and as long as the FEMA Administrator is no longer in a peer-to-peer situation with other Cabinet Secretaries. And this could be extremely important when requesting needed resources from other agencies.

Thank you for this opportunity. I will be happy to answer any questions.

Ms. NORTON. Thank you very much Ms. Bullock.

Francis McCarthy, Congressional Research Service, the section of Federalism, Federal Elections, and Emergency Management. Mr. McCarthy?

Mr. MCCARTHY. Thank you, Madam Chair. Good afternoon. It is an honor to appear before you today.

My work at CRS over the last 3 years and my previous 25 years at FEMA have been in areas that are directly related to the issues we are discussing today.

Several fundamental issues arise in considering how to cut the red tape and accelerate Federal assistance. Maybe the first question is the respective roles of the executive and legislative branches. Traditionally, both have played a key role.

Obviously, the executive branch, particularly FEMA, is administered on behalf of the President under the Stafford Act. Congress has authorized that statute, particularly this Subcommittee, and has amended it through the years. Also, Congress has, both through annual and supplemental appropriations, funded those FEMA Stafford Act response and recovery programs and, in addition, has also provided funds through other departments and agencies to meet specific post-disaster needs.

Oftentimes, this process has been an effective and complementary inter-branch partnership to address the complicated problems following a large disaster event that overwhelms a State or several States.

Within the context of the discussion, some have suggested that, for catastrophic events, the FEMA Administrator could be provided through legislation the discretionary authority to create lump sum or block grant payments as needed and other additional authorities, such as cost share waivers, to speed up the recovery process.

Some have also argued that, while discretion to designate a disaster a catastrophic event could be exercised by the President, it

might be a more reliable approach to have a catastrophic trigger based on the amount of estimated damage.

The creation of a threshold dollar amount to trigger increased cost shares and other exceptional procedures may be a critical part of this debate. Current cost share thresholds are clear, but these standards are under pressure from States seeking a waiver of costs. As this Chair has pointed out, many States consider their disaster catastrophic at the time it is occurring. So, for that reason, perhaps having an actual trigger would help to distinguish when we are in the realm of a catastrophic disaster.

An additional consideration might be that when the threshold for expanded assistance has been reached it could also trigger the President's notification to Congress of the use of catastrophic authorities, similar to the procedures currently for emergency spending. The notification could also serve as the vehicle to engage the Congress with potential funding requirements and suggested legislation that could move the response and recovery along.

I have discussed some of the alternative funding proposals for public assistance in my written testimony. One question of implementation regarding block grants, for example, would be how to determine and ensure that the amount of block grants meets the needs of the affected area.

It is important to note at this point that, while assistance to families and individuals and also for hazard mitigation grants are capped, there is no cap on the amount that may be spent for eligible PA projects. So, while the block grant is appealing, particularly for speed and clarity, it would also likely be an amount certain, while the PA amounts under section 406 can change and steadily accrue based on the actual repair or replacement work.

One option might be to use the initial block grant as an incremental downpayment on public disaster costs. Following the initial block grant, the regular section 406 process could then be used to assure eligibility and to complete the funding.

One other consideration I note is that all the ideas for upfront funding underline the need for quality damage assessments that can give a clear indication of the scope and extent of the damage. In discussion of alternative approaches for PA, the proposals generally assume that such options would be available under a catastrophic or mega-disaster. By investing these authorities in the executive branch beforehand, it arguably would permit the swiftest, most flexible action without the necessity of new authorities being legislated as the disaster event unfolds. However, providing such discretion to leadership might only provide the possibility of effective action.

Let me just briefly summarize some of the options that I have mentioned in my testimony.

Number one, provide discretion to the President within the Stafford Act to invoke authorities, including block granting of funds to State and localities to provide a more rapid and comprehensive recovery.

Two, install in law a trigger that, if reached, would set in motion a catastrophic annex or tier of increased and more flexible assistance and also trigger a notification to Congress of potential needs in resources and authorities.

Three, place in law a listing of Stafford Act program changes that would take effect for a catastrophic event, including cost shares for specific programs such as PA but also others such as other needs assistance and hazard mitigation assistance. Clearly define FEMA's role and that of other agencies and departments in State and local governments in long-term recovery planning and work.

Four, direct FEMA to create a national recovery framework similar to the National Response Framework but with an emphasis on long-term recovery program needs. This framework could also include alternative housing scenarios when large numbers of residents are displaced and define the FEMA-HUD relationship in disaster housing.

Consider other Department or Agency authorities that should also be triggered by a catastrophic event, such as the Community Development Block Grant program the Administrator mentioned.

Continue to have Congress create a legislative recovery package across the government to address the unique needs of particular catastrophic events.

And, finally, consider establishing in law a reporting framework so that all disaster spending, including but not limited to the Disaster Relief Fund, is captured and summarized for congressional review, particularly for catastrophic events.

I appreciate the opportunity to appear before you today and would welcome any questions you might have.

Ms. NORTON. Thank you, Mr. McCarthy.

Dr. Moss, Henry Hart Rice professor of urban policy and planning at New York University.

Mr. MOSS. Thank you, Madam Chair, and I want to thank you for inviting me to speak today.

I also would like to go back to the questions you posed at the outset of this hearing concerning the need to reconceptualize what a catastrophe is and whether we have defined it too narrowly and how we can rethink it. And I also would like to address some of the remarks that I have heard earlier this afternoon from the Administrator of FEMA.

Let me first say that the kinds of disasters that have been the basis for the Stafford Act, as you point out, originally, were natural disasters. And the history of disaster relief in this country is, in fact, focused on the capacity of the Federal Government to assist, as you point out, provide supplemental assistance to States and localities.

But the country today faces very different risks than those we faced when the Stafford Act was first signed in November 23, 1988, which, if you may remember, was over two decades ago. Globalization has changed the way in which we are linked to other countries, to other events, so that a financial collapse in Asia really could disrupt our own financial markets; problems in the harvesting of tilapia in China could impose enormous consequences on what we eat in the America. And, in fact, we have seen that our pharmaceutical and our nutrition is increasingly dependent upon food flowing from other places. In fact, over a third of all the apple juice products in this country come from China.

I think we have to be aware, in fact, that disasters are no longer rooted in our local environment but can come from other places. If we didn't learn this this year with the swine flu, we will never learn it.

The second point I want to make is that advances in information technologies have made us more dependent—and I think we heard this in your questioning about the risk from solar episodes earlier—we are more dependent upon advanced computer systems, thereby increasing our vulnerability to breakdowns in our energy systems, transportation and infrastructure, and communications systems.

I want to point out that, in 2002, when a power failure occurred in the Northeast, it was due to a tree in Ohio which interrupted the power supply outside Cleveland. So the failure to maintain power systems in Ohio led to disruptions along the entire Northeast.

Simply put, we have to understand that more and more of our public and private life is organized around global integrated digital systems. A small breakdown in one component can have serious and widespread consequences on the entire Nation.

And let me point out that this is in substantial disagreement with the speaker from FEMA, who basically talked about disasters only within the context of communities. And let me quote his remarks. He said that, "While the impact of catastrophes will certainly be felt at the Federal and State level, the impacts have the potential to be most devastating at the community level." And he pointed out then, "Therefore, our catastrophic response strategy must be designed to quickly stabilize communities and calibrate it to support their timely recovery and return to municipal self-sufficiency." This a terrific point of view, but it may not be appropriate for the 21st century.

And, as you may remember, he then said, "The key challenge is to return to normalcy." I want to point out this is one of the greatest myths of disaster recovery. There is no return to normalcy. We have learned from towns like Johnstown, with its flooding; we have learned from September 11th; we have learned from Katrina, there is no return to being normal. There is a new normal, but it is not the old normal.

And people who live in communities which have experienced disasters can tell you that it is different afterwards. They have experienced a catastrophe; it becomes part of the community, and it is different. So I think the goal of returning to normalcy is one that is desirable but unrealistic.

Now, let me just point out something—two other comments in the time I have remaining.

We need to recognize the changing scale of catastrophes. We have a lot of experience with natural disasters that disrupt a community, a city, a county, but we must consider the way catastrophic disasters threaten our national economy and capacity to function. In such cases, the Federal Government's role must go far beyond the concept of supplemental assistance and simply returning to normalcy. Clearly, we have to recognize the possibility that catastrophic disasters require much more than the Federal Government just bringing back a community to where it was beforehand.

And I want to end with one final point here. There has been a great deal of attention to housing, and I do believe, as you point out, that the housing problems from Katrina still remain with us. But after a disaster, quality of the water supply is far more important than housing, because if there isn't adequate water for sewage or for drinking, then it doesn't matter how many good housing units you have. The same thing goes with energy and communications.

So I think that the focus on HUD is a somewhat exaggerated one based on the Katrina experience, but not necessarily appropriate when you look at the way in which disasters can disrupt the fundamental infrastructure of a community.

Thank you very much.

Ms. NORTON. Thank you very much, Dr. Moss.

Adjutant General Donald Dunbar, State of Wisconsin. He is testifying, however, for the National Governors Association.

Yes, sir, go ahead.

General DUNBAR. Thank you, Chairwoman Norton, Ranking Member Diaz-Balart, and distinguished Members of the Subcommittee. Thank you for the opportunity to testify before you today on these important issues of catastrophic planning and disaster preparedness.

As the adjutant general for the State of Wisconsin, I serve as the commanding general for the Wisconsin Army and Air National Guard, with responsibility for both Federal and State missions. I also serve as Governor Doyle's homeland security advisor, Chair of the Wisconsin Homeland Security Council, and have responsibility for emergency management.

I appear before you today in uniform, and I am a federally recognized officer. However, I appear today as a State official, not on Federal military orders, and am representing the State of Wisconsin and the National Governors Association.

I would like to start by thanking the Committee Members for their leadership and support of the first responder and emergency management communities. I work closely with Wisconsin's first responder and emergency management communities and know that your support continues to improve our overall readiness at the State, tribal, and local level.

My testimony today will briefly touch on three areas critical to enhancing the Nation's preparedness for a catastrophic incident: first, the Federal-State partnership and the need to clarify the role of the military; two, the role of Federal preparedness guidelines; and, three, the need to better target grant investments toward achieving and sustaining capabilities.

Since becoming the adjutant general in Wisconsin, we have experienced many emergencies, three of which led to a Federal disaster declaration. I am proud of the response from our first responders and our emergency managers, who, under difficult conditions, served the people of Wisconsin very well. These are truly heroes who are committed to something larger than themselves.

I am also proud to report that the Wisconsin National Guard was able to assist in these emergencies. As you know, the National Guard is not a first responder, but it is a first military responder

for emergencies that exceed the capacity of local jurisdictions and require State support for the incident commander.

In keeping with our national and State guidelines, when the National Guard is called to support civil authorities, we respond through the emergency management framework and we support the incident commander.

Several times in the past few years, the Department of Defense has attempted to amend existing law to allow for mobilization of Federal Reserve forces in support of domestic emergencies. Each time, including most recently this year's defense authorization deliberation, the Nation's Governors and their adjutants general have opposed this legislative change. The opposition is centered on the issue of tactical control of military forces when responding to an emergency under Governor control.

The National Governors Association and the Adjutants General Association of the United States believe that tactical control should remain under the Governor and support the incident commander. This should occur unless and until the emergency is so severe that the Federal Government must take control. We believe these situations exist but are at the extremely severe end of the emergency continuum. We believe that this is necessary to ensure unity of effort and is consistent with national guidance issued by the Federal Government.

Secondly, turning to the Federal preparedness guidelines, I can share with you that Wisconsin finds them critical in guiding our overall preparedness planning. Wisconsin recently updated our homeland security strategy, which represents a collaborative inter-agency effort. It is our vision to foster a culture of preparedness and continually improve our capabilities to ensure resiliency at every level in the event of an emergency, with "resiliency" being the ability of citizens, family, and communities to successfully cope with and recover from an emergency, whether natural or man-made.

Our strategy specifies nine priorities with many goals and subgoals, to which we apply an analytical framework which seeks to measure our continual progress. Our strategy, based in part on Federal guidelines, will guide our investment of State appropriations and Federal grant allocations. This will allow Wisconsin to vertically integrate its homeland security efforts, measure improvement, and prioritize our investment justification in what is sure to be a continuing difficult fiscal environment.

Lastly, Wisconsin is developing metrics to support our strategy and measure our progress. For this, we rely on the Federal Government to define and articulate the target capabilities list to guide our analytics. It is our belief that these national capabilities, developed at the local, tribal, and State level, will greatly aid national and regional preparedness. It will also help identify gaps in local and State capability that, if needed, will require regional and Federal assistance.

The Department of Homeland Security has signaled that future Federal grant awards may consider existing capabilities and capability-based planning in the investment justification. If so, this may significantly increase preparedness if clearly understood and executed consistently. In my view, to be successful, grant guidance

must focus on capabilities but allow for full development and sustainment. Too often in the past, guidance has changed from year to year and thwarted efforts to develop capability fully.

Thank you again for this opportunity, and I look forward to your questions.

Ms. NORTON. Thank you very much, General Dunbar. And may I thank you for your service, as well.

David Maxwell, vice president of the National Emergency Management Association.

Mr. MAXWELL. Thank you, Chairwoman Norton, Ranking Member Diaz-Balart, and distinguished Members of the Subcommittee, for inviting me to appear before you today.

I am David Maxwell, director and homeland security advisor with the Arkansas Department of Emergency Management. I am testifying today on behalf of the National Emergency Management Association.

The definition of "catastrophic disaster" is an issue that NEMA has been discussing since Hurricane Katrina devastated the Gulf Coast in 2005. The challenge lies in the fact that what constitutes a catastrophic disaster in one State or community may not be catastrophic in another.

There is no question that Hurricane Katrina was a catastrophic disaster for those States and communities that experienced it. Similarly, should an earthquake occur on the New Madrid Fault Zone, it would be catastrophic for an entire region, perhaps the entire Nation. These types of events are of such scale and complexity that they require additional response and recovery efforts than we have seen in the past.

The Stafford Act was written broadly so as to allow presidential discretion and flexibility. NEMA believes that unnecessarily strict and narrow interpretations of the law are more problematic than the law itself. FEMA policies and regulations are overly restrictive and don't reflect the original intent of the Stafford Act.

Further, decisions by FEMA personnel in the field are often inconsistent between States and regions. As field personnel changes, previous decisions are frequently overturned.

The FEMA appeals process takes months and sometimes years. These problems are due to subjective interpretations of the Stafford Act, which end up costing State and local governments precious time and resources for community restoration. The opinions of attorneys and auditors seem to take precedent over the intended discretion and flexibility that Congress provided through the Stafford Act.

All of these issues combined serve to create a Federal bureaucracy that can paralyze large-scale disaster response and recovery.

NEMA recently established a working group to consider if changes are needed to the Stafford Act or whether issues can be addressed through regulation or policy. Our work has just begun so I am not in a position to share specific recommendations with you today, but we commit to sharing our work with you in the near future.

I am confident in stating that NEMA strongly believes that the Federal Government is not fully utilizing the power of the Stafford Act. In the words of one of my colleagues, if it is legal, moral, eth-

ical, and the right thing to do to help disaster victims, we should do it.

Arkansas has benefited from the FEMA Catastrophic Planning Initiative as we prepare for the possibility of a New Madrid earthquake. The challenge in catastrophic planning is that there is little experience to draw from, certainly with regard to a New Madrid earthquake. In Arkansas, we think we know how the roads, bridges, and other infrastructure will perform in a New Madrid event, but we are not 100 percent certain, so our plans have to remain flexible.

Despite these limitations, and perhaps because of them, I would encourage Congress to continue to support and fund FEMA's Catastrophic Planning Initiative. The national-level exercise in 2011 will be focused on a New Madrid earthquake and will be the first natural disaster scenario in the history of the national-level exercises.

NEMA is extremely supportive of the new leadership at FEMA. This team, led by Administrator Fugate, is made up of experienced, professional emergency managers who are innovators and have a vision for a world-class emergency management system.

Now is the time to redefine the outcome we want in large-scale disaster response and recovery and to align legislation and policy to support that outcome. We must also do a better job of leveraging all of the resources available to us in catastrophic disaster response and recovery, including the public and private sector. Government can't be solely responsible for recovery, nor should it be.

In most situations, government does a very good job at disaster response, but the current approach to long-term disaster recovery is ad hoc at best. While each disaster is unique, it would be extremely helpful for State and local officials to know in advance the types of assistance that may be available to them for long-term recovery. In addition, having a Federal counterpart that would help them access and leverage the various Federal programs would be helpful. This is an ideal role for FEMA. NEMA would recommend the development of a full-spectrum disaster response and restoration capability, and I have included several suggestions in my written testimony.

The main point I would like to make today is that we need not be confined to outdated systems and approaches to disaster response and recovery, particularly for large-scale events. We should define the outcomes that we want, build and resource the system that supports that outcome, build the team that can manage the event, and provide leaders with the discretion and flexibility to ensure a successful outcome.

Thank you for the opportunity to present testimony before the Subcommittee, and thank you for your strong support for emergency management.

Ms. NORTON. Thank you so much, Mr. Maxwell.

Russ Decker, president of the International Association of Emergency Managers.

Mr. Decker?

Mr. DECKER. Thank you, Madam Chair and Ranking Member. I am Russ Decker, the Director of Emergency Management and Homeland Security for Allen County, Ohio.

I am currently the president of the U.S. Council of the International Association of Emergency Managers. I have 19 years of emergency management experience, with the last 11 as a local director. IAEM's membership of over 4,000 State, local, tribal, military, college, private and nonprofit sector members makes IAEM the Nation's largest association of emergency management professionals.

The basic question asked by this hearing is what needs to be done to reduce the bureaucracy and ensure rapid response to catastrophes? We were also asked to review current authorities and suggest necessary changes to the Federal Government's response and recovery efforts to a disaster.

Defining a "catastrophe" by a specific numerical trigger is very difficult. In a large event, the rapid mobilization of Federal assets is imperative, but those same resources must respect the civilian chain of command in the jurisdictions in which they are mobilized.

Given the difficulty of defining a catastrophe, we believe that caution is in order when considering modifications to laws, policies, and authorities. We would urge caution in making statutory changes which enhance the role of the Federal Government, including the military, at the expense of the authority and responsibility of State and local governments, even in what some would describe as a catastrophic event.

IAEM consistently stresses the key to effective management of any major event is the rebuilding of the essential emergency management system within the United States. This system rebuilding must include the restoration of resources, personnel, and authorities of emergency management agencies at all levels of government. Without such a collaborative, coordinated, and comprehensive system, we will not have the ability to act decisively and with sufficient flexibility to deal with any crisis.

The stronger the State and local emergency management programs are, the less assistance that we will need from the Federal Government. We ask that the current FEMA administration be given the authority and the resources to do their job. And we urge that the upcoming FEMA regional administrator appointments consider experienced State and local emergency managers as candidates for those jobs.

What is needed most in any disaster, and especially in a catastrophic event, is flexibility of action and speed in decision-making. We do not need duplication of responsibilities and confusion over the chain of command.

The activities of the Office of Operations Coordination, currently in DHS, need to be examined, as they currently duplicate functions rightfully performed by FEMA as assigned, by the Post-Katrina Emergency Management Reform Act. And we continue to remain opposed to the appointment of a Principal Federal Official and strongly support and applaud the prohibition included by the House in the fiscal year 2010 appropriations bill.

We recommend that this Committee task FEMA to perform a study of their workforce to ensure that they have the necessary human capital to perform their assigned responsibilities. And we think FEMA should undertake an immediate review of their policies and procedures with an eye toward eliminating any bureau-

cratic hurdles. After that review, there should be a discussion of what additional legislative authority may be needed.

If changes in authority are needed, we recommend that they be placed within the existing Stafford Act to maintain vital continuity of existing efforts. Some possible legislative suggestions would be to allow a change or waiver of the statutory 25 percent cost share for the FEMA Individual Assistance Program for needs other than housing, and the Hazard Mitigation Grant Program, and increasing the \$5 million cap on the Community Disaster Loan Program.

On the policy front, the project worksheet system of the public assistance program is too cumbersome. Having checkers check the checkers over and over again and then having a new official say it needs to be redone is simply frustrating to our members. Perhaps FEMA needs to take another look at estimating and providing block grants.

Host areas need to be treated differently than they are now. In fact, the Dallas County, Texas, emergency manager advised me that Dallas and other jurisdictions have not yet received full reimbursement for their expenses in hosting other communities during Hurricanes Gustav and Ike. The ability to host future evacuees might be impacted by this lack of timely reimbursement.

We join FEMA Administrator Craig Fugate in recognizing the importance of personal preparedness, and we want to create a nation of disaster survivors, not disaster victims. In addition to people helping people, the recovery of small businesses is also vital to the recovery of a community, and they, too, need to plan.

We thank you for this opportunity, and we look forward to your questions.

Ms. NORTON. Thank you very much, Mr. Decker.

Finally, Joe Becker, senior vice president, Disaster Services, American Red Cross.

Welcome, Mr. Becker.

Mr. BECKER. Thank you very much, Madam Chairwoman. Thank you for holding this hearing on this important matter, and I appreciate your inviting our participation.

There has been a lot of discussion this afternoon about the certainty of the next catastrophic event. I thought it might be helpful to quantify some of the human need that would result from what we have imagined can happen.

Not even counting manmade events, just within the earthquake and hurricane scenarios, we know of scenarios in this country that would be four times the size of Katrina, five times the size of Katrina, and possibly larger. That is based on the human need that earthquake and hurricane scenarios would present to us. Clearly, as a country, we are not ready for scales of this size of an event.

We have had a lot of conversation this afternoon about the types of issues or the range of issues. I would like to confine my comments to what the rest of the panel has not discussed, and that is to go back to the housing and human service side. We are the Red Cross. We care for people, we feed people, we shelter people. I will confine my comments to those areas.

We are discussing particularly the long-range recovery housing issues, not the immediate sheltering issues, even though that is what the Red Cross typically focuses on early in a disaster.

There has been a lot of conversation about quantifying or coming up with a definition of a catastrophe. I would suggest that, for a practitioner who works with government but isn't part of government, as scale of disaster increases, you typically layer on more: You open up more shelters, you clear more roads, you increase your supply chains by a certain magnitude. A catastrophe is a disaster in which more of the same doesn't get you where you need to go. A catastrophe is a disaster where the scale is such that the normal business methods won't work. And that is what we have experienced a couple of times now, and what we have seen, and what we have learned from.

Starting with housing, we all know the scenario: You have people who leave the affected area and have no options for housing back in the affected area. The result is they evacuate over great distances and they can't come home. They can't come back to their jobs. They can't come back to their communities. They are evacuated and end up becoming residents of other areas for much longer than anyone had imagined.

And I have heard a lot of questions this afternoon about, what is the answer to that? And I would suggest, please, to this panel or this Subcommittee: There is no one answer to that.

We need the infrastructure, obviously the utilities, and then we need a range of housing options within the affected area, not just more mobile homes. Yes, the addition of HUD housing stock has helped in the recent disasters; the additional use of rental assistance has been very helpful. But if you do the math, the sum of all of the options that we have in our toolkit today is not big enough. No one option is the answer. The answer is to maximize each of the options, to develop new options. And a great deal of work is being done in the States and local governments in this regard.

Maximizing options, develop new options—and then housing isn't something that FEMA should do without the cooperation of a State or a community. Housing decisions are best made locally from the range of options that is developed with and by FEMA. We need the research work done. We need prototypes developed. We need contracts let.

And then we need to let State and local Governments, with their housing task forces that need to be stood up, work with FEMA's housing task force to arrive at the right local solutions. And, as you know, the urban solutions, where land is scarce, are very different from the rural solutions, where distances matter greatly. I would suggest that the National Disaster Housing Task Force that has been stood up to be the local focal point of this work needs your support and needs to be energized and needs to move more quickly.

Also—and I think we heard the Administrator speak to this—we are not constructing a response community and then dealing with the exceptions, the exceptions being the frail elderly or children or people with disabilities or people with medical needs or people with pets. Those are most of the people that we are dealing with in a lot of these disasters. They are not the exception to the model that we build; they are the model that we are building. And I think that work needs to continue.

Then, lastly, in housing, we focus a lot on the buildings. Are the utilities in place, and are the structures in place? And we don't al-

ways recognize that, when we have moved people hundreds of miles from what used to be home, the social services haven't followed and government services haven't necessarily followed. The medical care, the daycare, the elder care, the wide range of needs that people have pre-disaster, when we relocate them great distances, are exacerbated. So we have to bring the services to the people. And that is where integrated case management really matters. And we have great case management pilots led by a variety of Federal agencies, but we don't have an integrated solution to that yet, and that is needed.

I am not here today to give a laundry list of what FEMA needs to do. This is what our country needs to do. These are what the Federal agencies, the nonprofits, the for-profits, State and local and tribal governments need to do. I ask you to support this approach in this important work. And I thank you for your hearing today to make that happen.

Ms. NORTON. Thank you very much, Mr. Becker.

Just to lay some of the framework for the rather large questions we ask, I think the general public would be amazed to learn—you discuss it, General Dunbar, in your testimony; some of the others of you may have alluded to it—that the scenario of focusing on a manmade event by engaging in a realtime exercise for the first time involving a natural disaster will occur.

Perhaps some of you who have been in emergency management who are also at the table, Mr. Maxwell or others, can make us understand how, after decades of FEMA, decades beyond that a natural disaster, catch-as-catch-can, only, I take it, after 9/11 did it occur to anybody that the kind of disasters we have to prepare for every year require some realtime exercises. I mean, why did this not occur before?

We think this question will help us to understand whether or not any change in the statute is necessary, since we certainly don't think that FEMA or the Federal Government lacked the ability to do some kind of national-level exercise, that somebody has to say, "You hereby have authority to do such an exercise with respect to tornadoes or, actually, all hazards."

Why, in your judgment—what are we, 7 years after 9/11 even? Why is this occurring now and not before? I mean, if it is as clear as the nose on your face after 9/11 that such exercises should be done to prevent terrorists attacks, why, given the scale of disaster even before Katrina, was this not done, in your view?

Mr. Maxwell or any of you?

Mr. MAXWELL. Madam Chair, I will take a stab at it.

I think part of this, the national-level exercise series developed out of the TOPOFF series that was done—

Ms. NORTON. The what?

Mr. MAXWELL. The Top Officials exercises that were done that involved Cabinet-level officials, as do the national-level exercises.

For a long time, the States and regions have practiced natural disasters, and I think we were playing catchup—

Ms. NORTON. At the direction of the Federal Government or on their own?

Mr. MAXWELL. Both on their own and, to some degree, with the Federal Government, as well.

Ms. NORTON. So perhaps, you know, the terrorist attack is not likely to be some kind of bomb that incinerates the United States, yet we had national exercises there. I still am—

Mr. MAXWELL. I think, to some degree, we were playing catchup on not having practiced that terrorist event. So we went through several scenarios on that, and now we are getting back to the need to do those high-level officials exercises with natural disasters, as well.

Ms. NORTON. It makes one question whether—so you agree that it wasn't a lack of authority?

Mr. MAXWELL. No, ma'am.

Ms. NORTON. And I think it is you, Mr. Decker, that cautions the notion that statutory changes may be necessary. We did look at the statute. And, you know, Congress also writes statutes very broadly. If you are go at dealing with something major, don't nitpick the authorizing statute. Give the agency what it needs to proceed.

And you look at that Stafford Act, and you see as broad a mandate as you are going to find anywhere. And yet, over and over again, FEMA said, "Well, we don't think we have the authority to do X, Y, or Z," and exasperated the patience of the people on the ground.

Are you suggesting, Mr. Decker, that changes may not be necessary to cope with a true catastrophic disaster, given what you have seen, how you saw the timidity you saw in FEMA, especially when you seem to somehow relate this authority, quote, "at the expense of the authority and responsibility of State and local governments," even in what some would describe as catastrophic events? Well, we are certainly not. We are suggesting, if anything, that our role is supplemental, we mean it to be supplemental, no matter what you call it. But you can call it supplemental all you want to when it comes to Katrina, but you heard us question \$3.4 billion. We are not about to authorize for anybody else to do anything in any disaster we have seen before.

So we are left with the agency trying to figure out how to resolve disputes between the two agencies, Federal and local, precisely because we never put anything in the statute to say what to do. So they are sitting there with their, you know, thumb in their mouths, although, under this present Administrator, apparently making some progress, or so he testified. But people on the ground are literally tearing their hair out.

Now, let's assume that off the table is moving out what State and local government would be doing, Mr. Decker. Remember, Administrator Fugate testified that he told the Administrator recently while he was on the ground in FEMA, "Stop sending stuff to us we don't need." The Administrator said, "Yes, sir. Yes, sir." So, you know, he had the backbone to stand up and say, "Don't do that. You are being wasteful." But we saw FEMA just pour ice on the second hurricane down there, with people laughing at the Agency all over the place for fighting the last war with too much ice.

So, assuming that we are not trying to do anything at the expense of local and national government and still regard the role of FEMA as supplemental, even in a catastrophic disaster, except for you are going to tell me what, would you or any of you believe that clarification of statutory authority is necessary? Or, given the

broad language of the statute, should FEMA just hunker down and do what the statute says and it will all take care of itself, understanding that you have on-the-ground experience from which to draw from now?

Mr. DECKER. Madam Chairwoman, I will take a stab at that one.

I think what our members were trying to stress is that we view the Federal role as supplemental, and we want to make sure that the locals and the State don't lose that command and control function.

Ms. NORTON. But how would that happen? You know, do you really think we are just aching to throw money at States and localities?

Mr. DECKER. If there are going to be changes, they need to be within Stafford, because we believe that as long as it is a Stafford Act event and we have an FCO coordinating the activity—

Ms. NORTON. And not two people coordinating it.

Mr. DECKER. —and not this confusion about is it the PFO or the FCO, then I think you find the locals are much more likely to accept that, because that is a system we are familiar with and it is a system that we trust. And we believe the Stafford Act is broad enough that it would cover a lot of those events if the FCO were simply given the authority to do his or her job without worrying will a PFO be coming in and overtaking them.

Ms. NORTON. Well, if there was a huge catastrophe that struck Los Angeles, are you confident that we would be able to categorize it as a disaster or as a Katrina-like catastrophic disaster? Are you satisfied that that would happen instantly or in a timely fashion? Because we haven't seen anything like that, in our lifetime at least, on the West Coast, but everybody tells us it is coming.

Mr. DECKER. I think defining "catastrophe" is going to be the toughest part of this. What is catastrophic, I mean, if you take out the entire State of Ohio, it is certainly catastrophic to us, but the impact on the rest of the country is going to be what I think defines it as whether or not it is a catastrophe or a national disaster.

Ms. NORTON. Do you think you could take out the State of Ohio and not have an effect on—

Mr. DECKER. Well, my Governor probably wouldn't like that. But I am saying I think that the definition of "catastrophe" has to be what has a major impact on our Nation and not just one State or one region or one community.

Ms. NORTON. Dr. Moss?

Mr. MOSS. I just want to point out that there is a legislative mandate already—and Mr. McCarthy pointed this out in his testimony—to create a national recovery framework. And I think FEMA has done this with a planning framework but not with a recovery framework.

Ms. NORTON. And you think there needs to be a recovery framework?

Mr. MOSS. No, I think the legislation already exists to require that, but it hasn't been done yet. That has already been mandated. I think you might want to direct them to do it.

Ms. NORTON. And if that happened, then what?

Mr. MOSS. Well, I think you would start thinking about how the recovery process—and we heard, I think, very open testimony

about the importance of flexibility, of speed. But I think the fact that—

Ms. NORTON. That would help define?

Mr. MOSS. It would certainly—there was an issue raised here, from the Red Cross I think, about the question of housing and of social services. But understanding what is involved in recovery has been one of the many flaws—

Ms. NORTON. By the numbers or by what?

Mr. MOSS. About the elements of a recovery, what it would take to have a recovery. And I think the point I—we have heard a lot of discussion about housing, but I think we also heard about social services and the problems you have when you decide to move people more than a hundred miles from their location. Things get much worse, in terms of what is required for recovery. And I think that asking FEMA to carry out what you have already asked them to do might be a good start.

Ms. NORTON. Might be the place to start.

Ms. Bullock?

Ms. BULLOCK. I would like to make two points.

Number one, I think that the legislature, the beauty of the Stafford Act, throughout my experiences at FEMA, was that it did give the Agency the latitude to think outside the box and to do innovative programs. And we can talk about innovations that we engaged in, in use of the Stafford, at some later point. So I don't think there is necessarily a need to increase the authority in Stafford.

I think the problem exists in, in terms of what Administrator Fugate said, narrow interpretation of regulations on the part of the Agency. And I think that, if they are going to work on that, that is something I think Congress should look at very carefully, because people—

Ms. NORTON. The narrow regulations, you are saying.

Ms. BULLOCK. Yes, and narrow interpretation of those regulations.

Ms. NORTON. Yeah. And, you know, I want to question you on that, in particular. You know, at bottom, this is a judgment call. Let me tell you how Federal officials operate. They are afraid, with good reason, of the GAO. They are afraid of our Committees. And there are, excuse me, "cover your butt" notions. It is takes a very independent, intent-upon-doing-his-job, strong administrator.

And I have to tell you, as a Member of the Homeland Security Committee and a Member of this Committee, I think what we have seen in Federal bureaucrats does not give me comfort to believe that, regardless of the bureaucrat, the person will understand "go ahead." That is why we even are looking at the President. Somebody has to signal that it is all right, so that when the fingers begin to point, responsibility, we know where it lays.

For example, when Mr. Fugate said, "Don't send anything else here," if more was needed, he would have had to step up and say, "I asked the Secretary not to send more resources at a time when I did not think they were necessary," even if it turns out he was wrong. We have to be risk being wrong sometimes.

But I tell you, the reason I said to Mr. Decker "in light of existing experience," even after Katrina, we passed the Post-Katrina Act because—and even after the Post-Katrina Act, the timidity of

the Federal bureaucrat was on display every time we had a hearing, no matter what the mandate and the rest. That makes us tremble a little bit, to say, who is going to call the shots? For example, did you speak about waiver? When you say, ask for a waiver, well, you know, we sometimes give the President authority to do things and then report to Congress.

It is Dr. Moss who cites a perfect example, incident of national significance, that somehow they had to waive to DHS. What did DHS have to do with it? Nobody at DHS had any experience; only FEMA did. But it is generally understood that, yes, this incident of national significance had to be, "You got to do that first." Whereas before, Ms. Bullock, you know, FEMA used all of its expertise, said to the President, "This is X," he acted, and FEMA was out like lightning.

We have gotten rid of this incident of national significance. We still do not have confidence that we will see the kind of instant action if a catastrophe, something we have never seen before, something of the kind Mr. Fugate talked about, the incoming of the sun or, yeah, Ohio—is Ohio like Louisiana? They don't have any oil in Ohio.

You know, somebody has to make the call. And so, my answer is, if somebody has to make the call, does the statute have to say who should make the call? Or is there plenty in the statute and all you need is some backbone, which you are guaranteed to have, on who should make the call? We have to make a judgment one way or the other.

Ms. BULLOCK. Well, I would argue that the statute provides the authority. But I think, Madam Chair, you are exactly right. It all comes down to leadership at the top, in the Agency, within—if it is going to stay in DHS—within DHS. I think we are naive to think that if we have a majority catastrophe, DHS and Secretary Napolitano is not going to want to play a major role in that disaster. I think we are just being naive if we don't look at it that way. Therefore, the Stafford statute maybe has to be made stronger to clearly say that the FEMA Administrator is in charge and maybe is a PFO.

The other thing, just to go back to the recovery issue, if Congress doesn't put somebody in charge of recovery, it is never going to be organized. Because the agencies—during the 1990s, we used to bring all the agencies together after a major disaster, like Northridge or any disaster. We would sit them in a room, and we would come up with an ad hoc report that would talk about what each Federal agency is going to do to support that community in the aftermath of the disaster.

We did that because the President wanted FEMA, James Lee Witt and the Federal Emergency Management Agency, to take that coordinating role. That is not in statute anywhere. It is not in Stafford. I think that is something—especially in the aftermath of a major catastrophe, somebody has to give the authority to an agency.

Ms. NORTON. Well, you might—you know, a Cabinet-level agency. FEMA—now, here we get into real bureaucracy, friends—FEMA is not a Cabinet-level agency. It is not like it was when it was independent. I gave, as an example, the swine flu. So somebody has to

say—and the President said it, because, clearly, they put the CDC up front.

Now, if, you know, there were to be an attack involving biological weapons, I am not sure who in the world would do that. But somebody would have to make that call. And, you know, for us to be fooling around with whoever is the lead agency, and FEMA—you know, you are not going to tell the Secretary of the XYZ what to do—you know, presents problems. That is how bureaucrats behave.

That is why we are looking to see how far should we go, mindful of what Mr. Decker said. We are very, very reluctant to broaden an already broad statute or, for that matter, to pull it in. We just don't want to be sitting here when the next one occurred and nobody jumps up and acts like he knows what he is talking about.

Like, for that matter, General Dunbar really complicates matters for us, but rightly so. Because you point out that if you—now, if we are dealing with the National Guard, that is already under the Governor. But you point out that the Defense Department wanted authority to call up the Reserve forces, under some circumstances, to assist. I don't know what you do with posse comitatus, but let's go down scenario. I guess, if we enact a statute, we enact a statute, so it happens.

Because you are concerned, in something parallel to our PFO or CFO, whatever these officers are, you are concerned with the establishment of dual chains of command being created by having the Armed Forces in there. But, of course, we have a separation-of-powers government. And it is kind of awkward to think about putting the Reserve forces under a Governor. Or is there precedent? Could this occur? Should it occur? How should it be done, if we absolutely need the Reserves because the people on the ground need them, the National Guard isn't enough?

Remember, we might not get there, because we can call in National Guard from all over the country. They are trained better than the Reserves. But if these Reserves would have some kind of law-enforcement-type authority of any kind and somebody would need to do something statutorily given existing law, don't you think.

General DUNBAR. Yes, ma'am, I do. And I think that the best place to start is probably to comply with the law from fiscal year 2009, which mandated a Council of Governors to tackle this issue. When Congress issued their rejection of the request, they suggested that we could best solve this issue of tactical control by forming this council of Governors and working with DOD to resolve it.

I think that, from a doctrinal point of view, it could be accomplished. NORTHCOM, in their relations with Canada and Mexico—and I realize we are talking sovereign nations versus States-- but if we send forces to Canada, it is possible that we would put tactical control of those forces under a Canadian commander. If Canada sent forces to the United States, it is possible that they would put those forces under tactical control of a U.S. commander. It doesn't mean you have given up all authority. You could always recall those forces. And higher levels of control, operational control, and higher levels of control continue to exist.

You mentioned the National Guard. When we deploy National Guard forces to other States, which is a similar parallel—I have

done this this year alone from Wisconsin to both North Dakota for the floods and Kentucky for the ice storm—I give tactical control of those guardsmen, who, in fact, become State assets for the States to which we deploy them. And I certainly reserve the right, or Governor Doyle reserves the right, to recall them if needed.

General DUNBAR. But I think from a unity-of-command, unity-of-effort point of view, the best thing to do, unless and until the Federal Government needs to take command because the emergency is so drastic, so severe-- in which case we would all get behind the President-- I think the best thing is to stick with both the State and Federal guidance, which is the lowest level up.

And, from that perspective, we probably wouldn't be talking lots of Federal troops. We might be talking about a company of engineers or a small capability that could easily fit into our joint force headquarters in Wisconsin, or another State's joint force headquarters, and we would then provide those forces to the State Coordinating Officer, which is lined up perfectly under the Stafford Act.

Ms. NORTON. I am going to ask staff and I am going to ask any of you to look at what happens here at the inauguration. The State-to-State, the Guard-to-Guard does not present a separation-of-powers problem. It is State-to-State, and we lend across State lines all the time. But the armed forces of the United States constitutionally is under the Commander in Chief, and that constitutional barrier is of some interest to us. There are certain things you can't waive very easily.

General DUNBAR. Yes, ma'am.

Ms. NORTON. During the inauguration—and here I may not have all of the facts in mind, but since I represent the District, I was concerned that the inauguration was so big this time that there was, at first, the notion that the Reserves should be under some dual command. Apparently, it has always been under the D.C. National Guard, the commander of the D.C. National Guard. And there was some kind of swearing in—I am not sure what it was—but there was some kind of swearing in of everybody else who came in, so they were either sworn in by the National Guard or—it occurred, even though these were National Guard.

Now, the D.C. National Guard is a little different because we are not a State, and therefore—but these were Reserve people. They were on the ground at the inauguration. And my recollection is that, although the D.C. National Guard is technically under the President, that the commander of the D.C. National Guard swore in these troops as something other than Reserve troops for purposes here that may suggest there is some parallel there to avoid any constitutional issue arising. Because I do think that if we are truly preparing for the next one, we better assume—assume—that you will need to go beyond the National Guard.

Now, the National Guard is best trained to do this, no question about it, from across the country. And there are a whole lot of Guards. It is not that I think we would need more troops. I agree with you. But what we may need is specialized training of the kind—for example, I don't know if anyone has seen this movie that I saw over the weekend called "Hurt Locker."

This is the movie, so far, from the Iraq war. And "Hurt Locker" is about a whole lot more than the kinds of capabilities that our bomb defusers have. These people are setting off bombs designed to blow up entire cities and all of the people with them. And I could see a "Hurt Locker" situation where you would want some of those DOD guys—what does the general ask him? "How many bombs have you defused?" "842, sir"—those kind of guys to help you with one of those massive explosives designed to go off, for example, in a subway, where you might say you need a little more than the very important and now upgraded capability of even the best of our bomb folks here in the country.

So, yes, we want to look and we want to continue to receive your views on this, as well, because—

General DUNBAR. And, ma'am, if I could just make one—

Ms. NORTON. Please do.

General DUNBAR. I would just like to state for the record, state that the Reserves are, in my opinion, even though I am a National Guard commander, just as professionally well-trained as the National Guard and do a phenomenal job for the country.

You are right about the distinction, and you mentioned the dual-hat command. I think that is worth discussing just for a second, because—

Ms. NORTON. The what?

General DUNBAR. Dual-hat command. Under the law, the President and the Governor can agree on one National Guard officer, out of a total of 32, under Title 10 command authority at the same time. That would allow, in effect, both of those chains of command to end at the same commander in the State response. This would avoid the separation of powers that you are talking about and allow us to function under the Governor's control through the State coordinating officer in accordance with the Stafford Act, if that was, in fact, what was going on.

So that part of law already exists and was designed for that very outcome.

Ms. NORTON. Uh-huh.

Mr. McCarthy, have you looked at this serious problem? This is the problem we have yet to confront, that it may be right up the line. Because we know how to deal with, you know—or we are beginning, finally, to deal with mass transit and the rest, particularly concerned with underground. We have dealt, we think, at least to a large extent, with planes.

So the next disaster, if terrorists are to prove as prescient as they have thus far, may well not be like anything we have seen before, and could be so serious—it could be an actual terrorist attack of some kind—as to make us look, first and foremost, to people who have experience in that kind of work.

Have you done any of the work, in all of the work you have done on this issue?

Mr. MCCARTHY. Madam Chair, I haven't, myself, because I have mostly concentrated on the Stafford Act recovery programs. But some of my colleagues at CRS have been working in this area, and I could refer some of their work to you and put them in contact with the Committee.

Ms. NORTON. We would be most pleased to receive that. This is truly virgin territory.

Finally, Mr. Becker, you have spoken about housing in particular, which has been the bane—really, we have had such concerns. Although I think Dr. Moss says, you know, there are other areas that are of greater importance, if you think about the disaster itself. The fact is that, in this country, we always focus on the person. And so, you know, if they have 10 people in trailers, those are the people the press will focus on and, frankly, that the average American is focusing on. Even if your computer stuff is out, they want to know what you are doing to this family or this disabled person or this person who cannot find housing or is still in a trailer and the rest of it.

The administration, after entreaty after entreaty from this Committee, did issue a final national disaster plan. This was the evening of the last business day of the last administration. In light of your concern with housing, do you believe that this plan is adequate for addressing the needs of a catastrophe or, for that matter, of a disaster?

Mr. BECKER. Madam Chairwoman, I would suggest that the details of the plan empower a task force to solve what hasn't been solved so far. And by that I mean, I don't think you are going to see specifics of a plan that would satisfy a county emergency manager or a State emergency manager to understand the framework and understand how it needs to proceed.

What we need to do is—if the Administrator wants to continue with the Disaster Housing Task Force that the plan calls for, that needs to be staffed. It is yet to have a permanent head, and it has been in existence for over a year now. It needs to be supported, it needs to be a multi-agency, resourced body. It needs to have State, local, and tribal and nonprofit representation, although the Red Cross is on it.

But from that, the most important body of work that that task force can do is to create a menu of options. It is not any one option that is going to be the magic bullet in a catastrophe; we need a menu of options.

Joe Bruno, Commissioner Bruno in New York has done some great work to look at what the urban housing needs would be in a catastrophe hitting New York City. That is very different than travel trailers and mobile homes on big vacant lots. You need to have menus of options for him. You need to have a menu of options for Arkansas that might be very different from that.

And so, this work is moving too slowly. And this task force needs to be resourced, it needs to be headed by a permanent leader, and it needs to get moving.

Ms. NORTON. Yes, because—I am going to ask Mr. McCarthy, who has been working on these areas.

When we got this so-called housing plan, it looked like a plan in order to plan. And we were expecting a plan. And, yes, the differences you are talking about were not even approached. I don't know where FEMA is on it, but it is very scary, given the issue that perhaps received the highest visibility in recovery in Louisiana and Mississippi was housing, to think that we still don't have a plan.

Mr. McCarthy?

Mr. MCCARTHY. I just want to mention, I think what Mr. Becker is saying is correct. At this point, what you really need is—it was a plan for a plan. And it is my understanding that the task force now is working on a concept of operations of actually applying the plan and starting the—

Ms. NORTON. Applying what plan, sir?

Mr. MCCARTHY. The disaster housing plan, to start having specifics for it, of how it would work—

Ms. NORTON. To make it into a plan?

Mr. MCCARTHY. Yes, to make it into a plan.

And one other point I want to point out, though: The PKEMRA Act did quite a few good things. And I think one of the best things it did was to authorize case management. And it had a few other things. It took the caps away from within housing, where you could spend the amount you needed to on repairing your home within the overall cap. It provided all that freedom. The one thing it wasn't, though, is it wasn't retroactive to the population affected by Katrina. And so, in some ways, I think that those tools would have been helpful—

Ms. NORTON. Why wasn't it? And should it have been?

Mr. MCCARTHY. Well, I can't speak to why—

Ms. NORTON. Well, a disaster, you know, you only know after the fact. We, after the fact, waived the State match. We never would have done that before the fact. Some of these things—you know, you are not clairvoyant.

On the other hand—who was it that suggested among you, maybe it was Mr. Fugate, some kind of reward incentive for mitigation? When I think of the way we have done mitigation, this whole Committee is a huge fan—Subcommittee and Committee—of mitigation, yet we put tiny resources into it. I know that is not going to be anymore. We were doing that long before the—those little resources long before. I don't know if States wait for mitigation resources from us. That is really waiting for Godot.

Now, Mr. Fugate indicated some kind of reward or incentive system. I don't know if you looked at that.

Mr. MCCARTHY. And you have done some of that. The Disaster Mitigation Act of 2000, one of the things it did was provide FEMA with authority to do cost estimates and pay on that, which hasn't been implemented yet after 8 years. But the other main thing—

Ms. NORTON. We are just trying to help people recover from the disaster, so that if somehow—was it in the earthquake, Ms. Bullock, that you spoke of that there was actual criticism because the rebuilding took account of the fact that there might be another earthquake?

Ms. BULLOCK. Yes.

Ms. NORTON. And who criticized that, for goodness' sake?

Ms. BULLOCK. Well, actually, it was the FEMA IG. It was an internal criticism.

But what we did there and what certainly after a catastrophic disaster has to be considered—building codes, which have been mentioned, and the Committee is very supportive, are only for a life safety protection. In other words, that way the building won't fall down. What we did after Northridge was we worked with the

hospitals, specifically the UCLA hospital system, to rebuild those hospital buildings for a continuity of operations, so if there was another earthquake, those building not only would still not collapse, they would be able to be fully functional. And, obviously, hospitals are things you need, absolutely critical, after any sort of disaster but particularly an earthquake. And it is those kinds of innovations that we took and ran with.

And, you know, what Fran has talked about and what we have talked about with mitigation, unfortunately, State and local governments are so strapped post-disaster that they cannot meet that match. It is the last priority when it actually should be the first priority, because we have all sorts of evidence that shows that, when we do do mitigation, for every \$1 invested in mitigation, the Federal Government saves \$4 in future disaster costs.

And the Congressman who talked about the flooding in Iowa, I would bet that the buyout program that FEMA participated in after the 1993 floods and then again in 1995 with the repeat flood probably kept so many of his homes and his constituents' homes from being flooded.

We have to make an emphasis on mitigation. And it is unfortunate—

Ms. NORTON. But FEMA approved of the rebuilding, reinforced rebuilding, I take it?

Ms. BULLOCK. Yes.

Ms. NORTON. You see what this does, the IG—and this is very interesting, because certainly—what was this, the early 1990s? By that time, everybody was afraid of earthquakes in California. Was the IG looking only at cost?

Ms. BULLOCK. The IG was looking at cost, and the IG was also looking at the regulations and that perhaps we exceeded our application of our own regulations. That was really the issue.

The problem is, if we don't take those steps now, we are just going to keep putting money out over and over again. And I think this is a serious issue because there is a lot of strain on the San Andreas Fault right now. There has been a lot of geological work done recently, that we may be looking at a major earthquake in that area. And California is way ahead of the rest of the country relative to applying building codes and retrofitting, but there are still going to be huge problems.

Ms. NORTON. Well, I would like to think that today nobody would criticize anybody for reinforcing housing. I am not sure about that, but—

Ms. BULLOCK. Well, the criticism didn't come from the Congress. And the issue is, it all comes down to money. I mean, the fact that—

Ms. NORTON. Well, but FEMA, you say, had approved it.

Ms. BULLOCK. Yeah, FEMA had—but the fact that they didn't waive the hazard mitigation cost share after Katrina, when those homes could have been rebuilt in a much safer way—

Ms. NORTON. Yeah. And much faster.

Ms. BULLOCK. —and FEMA never asked you to waive it.

Ms. NORTON. Never asked to waive. Now, this is very important. FEMA could protect itself by simply coming to the Congress and then we take the rap. I can think of no instance where FEMA

asked us for congressional authority or authority even from the Committee, which we then would have had counsel investigate and say, you now have the—I can think of no instance when they asked for it. And I don't even know what would keep a bureaucrat from asking for it. If that doesn't protect them, what else could?

Let me finally ask you, given what Mr. Becker has seen and what certainly those of you in emergency management have seen, where you would stand, given your studies, of implementing public assistance on the basis of estimates, whether that would speed recovery, whether you think FEMA would act more quickly, whether that would be viable in terms of the IG and all of that stuff that is important to keep in place?

Mr. MCCARTHY. Madam Chair, I think it would be very helpful. That authority, as I mentioned, was passed in 2000. FEMA, as they were told in legislation, assembled an expert panel in 2002 and set up, kind of, industry standards for estimates. But nothing further occurred. And that authority was partly meant to accelerate the process—

Ms. NORTON. So here I am putting it before you. You are pointing out very specific authority that we gave.

Mr. Maxwell wants to say—

Mr. MAXWELL. Yeah, I just want to express one concern with that. It has to be done in conjunction with a complete review of all of the policies within PA and how they are administered. Because the last thing we, as a State, want to have happen is get an award that is based on an estimate and then have to pay money back and collect money back from a sub-grantee, that local government, to turn money back. So we would want a very careful review of the policies.

Ms. BULLOCK. I would just like to add—

Ms. NORTON. Ms. Bullock, yes?

Ms. BULLOCK. —in the Northridge earthquake, once again, because of the scope of that disaster, we did do some upfront funding. You know, if a project came in and the State or the local government said it was going to be \$2 million, we wouldn't give them the \$2 million, but we would give them a portion so they could at least get the work started. And then we could do the more comprehensive—

Ms. NORTON. Wouldn't that take care of it, Mr. Maxwell? We are not going to throw any money out of here very quickly, but when people are waiting just to get started—Dr. Moss, do you see a problem there?

Mr. MOSS. No, I think the—I thought that there is a provision in housing for it to be rebuilt to higher standards. But in other parts of FEMA, I think the aid is to rebuild it to what it was. Am I correct? I think that we—some of our rebuilding standards mean that we cannot rebuild to what would be, you know, 21st-century standards. I think that is a very big problem, in my view, because—

Ms. NORTON. A huge problem.

Mr. MOSS. —if a building is 100 years old, we are going to rebuild a 100-year-old building? No.

Ms. BULLOCK. But FEMA covered themselves. And that—

Ms. NORTON. You mean in the earthquake?

Ms. BULLOCK. Yeah, in the earthquake. Actually, not in the earthquake. In any disaster after that, FEMA then would say, "Yes, okay, if the code takes you to this point, you can have additional mitigation money to take it to this other point." But, once again, there was not adequate funds to handle all of that. If you are redoing a whole school system in the city of the Chicago after a massive tornado, there never would be enough funding to use that formula.

And that is why working with communities on building codes and updating building codes is so critical.

Ms. NORTON. And this is going to get to be real touchy, because climate change and energy conservation is a top priority for this Subcommittee, this Committee, and the Congress of the United States. Now, we have figured out, because industry helps us to figure out, we have real-time figures now about the payback. Now, that is going to confront us in Louisiana. If you are rebuilding, you know, Mercy Hospital, what kind of energy systems are you putting in? They are going to cost more.

I can tell you this much, we are going to build a Department of Homeland Security over in Ward 8. It is going to be a LEED building. It may not be platinum, but it is going to be as close to that as we can, because we know it is going to be there forever, in this case, because it is a Cabinet agency. That should be pretty easy to figure out.

I don't know what the life of a school is. But I do know today what I did not know 5 years ago, what the payback on many energy systems is. I don't know if we have confronted this. Certainly, it has not come to the Committee's attention. But this is the kind of thing that we have got to be prepared for. It would save the Federal Government money. It would save the State money. It costs some money in advance beyond what we would have paid 10 years ago. And whether that gets factored in or not will be an explosive question for some of us for whom energy conservation is a major issue today.

Ms. BULLOCK. I would certainly love to see the Committee ask that of FEMA. Because there are huge dollars that have been spent rebuilding buildings that—

Ms. NORTON. We will certainly ask that of, you know, Mercy Hospital, would you dare, for example—that is going to be a healthy part of that \$3 billion, to simply build it back to how it was, if you could ever figure that out. Given what we now know about energy conservation, that is the hottest spot on the map of the United States. It is a hospital; you are going to have electricity systems running, or need them running, in the event of an earthquake. It is going to have to override anything else you can think of. You are not going to move all of those people out again just like that. You didn't move them out just like that before. All of that now is experience that we have.

Did any of the rest of you before—as you can see, when we put a big question like that, it helps us to have before us a full array of experts so that you can cross-pollinate one another, and I will let you pollinate us. Is there anything you want to say before we call this hearing to a close?

Let me thank each and every one of you for very fruitful, very productive, and very stimulating testimony that is going to help us. We are going to do something. The question now before us, given the kind of information we are getting from experts at your level, what is the most we can do with the least possible harm?

I say that with some meaning. We mean to do no harm. We have found that FEMA, left to its own devices, may do harm by doing nothing. And thus, we are going to need to try to be wise and not to simply throw down the gauntlet and offer a new statute to what we think was a very well-written statute in the first place.

Thank you very much for coming to advise the Committee.

The hearing is adjourned.

[Whereupon, at 5:40 p.m., the Subcommittee was adjourned.]

**OPENING STATEMENT OF  
THE HONORABLE RUSS CARNHAN (MO-03)  
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE  
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,  
AND EMERGENCY MANAGEMENT**

**Hearing on  
Post Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid  
Response After a Catastrophic Disaster**

**Monday, July 27, 2009  
2167 Rayburn House Office Building**

Chairwoman Norton and Ranking Member Diaz-Balart, thank you for holding this hearing on Post Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid Response After a Catastrophic Disaster.

The poor response to Hurricane Katrina and its disastrous aftermath indicated the necessity for reexamining our country's emergency assistance and response programs, the effectiveness of these programs, and areas for improvement. The 2006 Post Katrina Emergency Management Reform Act took steps to address inadequacies in planning and preparation for catastrophic disasters. The other side of the equation—protocol for responses following catastrophic incidents—continues to be considered and reworked to maximize effectiveness and efficiency. Therefore, it is essential that we continue to provide suggestions for specific areas of catastrophic disaster response when there are instances of extremely high casualty levels, damage and disruption.

Any suggestions that we generate for future disaster response should have situational adaptability. It is apparent that any catastrophic incident will be unique in time, space, and aftermath. Our assistance programs should have the flexibility to be altered in order to provide the greatest amount of relief possible for any area that must recover from a terrible disaster of this nature. Additionally, I am curious about the scope of catastrophic disaster response on a national level and the ability to adapt our recovery and relief programs when a catastrophic incident is not restricted to a particular community, but instead has impact on a national scale.

In closing, I'd like to thank the witnesses for being here today. I look forward to your testimonies and hope that you will be able to answer some of the pressing questions of the subcommittee. Although planning responses for future disasters can be painful, it is also responsible and indicative of the renewed focus on assistance program improvements.



**Statement of Congressman Dave Loebsack****Before the Subcommittee on Economic Development,  
Public Buildings, and Emergency Management****Committee on Transportation and Infrastructure****July 27, 2009**

I want to thank Chairwoman Norton, Ranking Member Diaz-Balart, Members of the Subcommittee, and staff for giving me the opportunity to testify today. I represent the 2<sup>nd</sup> District of Iowa, which had the largest amount of damage in the Midwest from the devastating Floods of 2008.

These floods were severe. Many of our communities saw waters rise well beyond the "500 year" flood level. In Iowa, 85 of 99 counties were presidentially declared disaster areas, representing 85 percent of the entire state, the worst in our state's history. Some of the hardest hit areas in my district were Cedar Rapids, Iowa City, Coralville, Columbus Junction, and Oakville.

It is estimated Cedar Rapids has nearly \$5.6 billion in recovery needs. With this in mind, consider then, that around \$3 billion has been allocated to the entire State of Iowa for disaster recovery, which includes a large amount of state funds, even though damage statewide early-on was estimated around \$10 billion. When considering what constitutes a catastrophic disaster, one indicator which may be useful to consider would be damage estimates relative to community or state budgets and resources.

The State of Iowa had receipts for FY09 of around \$6.9 billion compared to the estimated \$10 billion in damage statewide, and the City of Cedar Rapids had a budget for FY09 of nearly \$380 million compared with around \$5.6 billion in needs. To further bring the magnitude of this disaster into perspective, when calculating estimated damage through FEMA's Public Assistance program, the Iowa floods alone rank as the 5<sup>th</sup> largest disaster in US history.

FEMA was not our only source of assistance. Many federal programs, departments, or agencies were mobilized and utilized during and after our disaster. I want to take a few moments to talk about just a few of the waivers, extensions, and changes to current law we had to work to put in place:

- FEMA agreed to lower the local cost share to 10% for all Public Assistance categories, and waived the cost share completely for others.
- In addition, the application periods for FEMA's Individual Assistance, Disaster Unemployment Assistance, and Public Assistance were extended, and numerous other waivers were granted through various federal departments or agencies.

I also worked with my colleagues in the last Congress to pass two supplemental disaster relief appropriations bills. The largest amount of these funds allocated to Iowa--\$800 million--comes from the Community Development Block Grant Program through HUD.

The amount of waivers and extensions needed to effectively utilize FEMA's recovery programs add levels of bureaucracy, and delay, to efficient recovery. In addition, the funding we obtained outside of FEMA and the Stafford Act has taken a year to be allocated to the state and has required various waivers, and will require many more, for the funding to be fully effective.

It is my understanding the effective use of CDBG funds after Hurricane Katrina continues to be an issue as well. CDBG funds are not traditionally used for disaster relief, and therefore not ideally suited to be flexible enough to meet the immediate post-disaster recovery needs of states and communities.

HUD Secretary Donovan stated during a visit to my district that the State of Iowa and the City of Cedar Rapids are models for efficiently utilizing CDBG funds for disaster recovery. I am proud of that distinction, but I wonder why, at this point, is the federal government still looking for models of efficiency? I know it has not been an easy journey for my district, and the journey is far from over.

The federal government's policies and programs for responding to major and catastrophic disasters are wide-spread, confusing, sometimes slow-moving, and often not tailored specifically for disaster recovery. I truly believe significant reforms are needed for Iowa and other disaster-affected states across the country. We must look closely and carefully at reform.

Thank you again for the opportunity to testify today and I look forward to working with you and our colleagues in Congress to address some of these issues before we are faced with another major or catastrophic disaster.



Dave Loeb sack  
Member of Congress



STATEMENT OF  
CHAIR ELEANOR HOLMES NORTON  
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY  
MANAGEMENT

**“Post-Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid  
Response After a Catastrophic Disaster”**

JULY 27, 2009

Today’s hearing will address very important new and unsolved questions that hurricane Katrina raised for our country for the first time: What is a catastrophic disaster? What is the role of the federal government before, during and after these events? Is additional authority needed to address response and recovery from these events? We cannot sit by and merely hope that outsized disasters, such as Hurricane Katrina and 9/11, will never occur again. Our obligation to the public requires investigation by this subcommittee to prepare us for these contingencies.

Hurricane Katrina made landfall on August 29, 2005, and proved to be the most costly natural disaster in American history. Congress, and particularly, this subcommittee, have spent the nearly four years since Katrina looking at the action of the federal government, as well as state and local governments, voluntary agencies and citizens themselves, from response to recovery, which continues to this day.

Today’s hearing focuses on next steps. What have we learned from Hurricane Katrina, as well as from other disasters in the United States and around the world, concerning what should be done to respond to catastrophic disasters and to facilitate recovery? Most important, what steps should all concerned be taking now to prepare for and mitigate the risks to lives and property from these events?

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) was signed into law on November 23, 1988, but it is not clear that the Congress contemplated gargantuan disasters, with recovery proceeding for years. The Act, authorized by our Committee, is the federal government’s primary authority for addressing major disasters, from all hazards and events. For the most part this authority has proven sufficient to address all types of disasters and emergencies, but it is an open

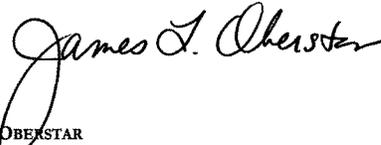
question whether the Stafford Act is sufficient when measured against the background that Hurricane Katrina now provides.

The Stafford Act and our nation's emergency management system are grounded in our federal system of government that recognizes that the primary responsibility to address disasters and emergencies resides with states and communities, not the federal government. As a result, the assistance provided after a disaster is, as the Stafford Act provides, to "supplement the efforts and available resources of states, local governments and disaster relief organizations".

However, it is already clear that one characteristic that distinguishes catastrophic disasters from other disasters is that the magnitude of a huge disaster often has national impact, rather than effects limited largely to a particular state or community. We must, therefore, re-evaluate the role of the federal government, as well as FEMA's authority, policies, and regulations that presume federal assistance is always supplemental regardless of the disaster. The Stafford Act's existing authority and systems for the emergencies and disasters are so detailed and time-proven that this landmark statute provides the necessary base for additions or revision, if needed.

However defined, Katrina teaches that catastrophic disasters are complex, unusually, large in effects, hard to predict and expensive. Moreover, they are distinguishable because they require months rather than days or weeks to move from response to recovery. Inevitably, therefore, the subcommittee cannot avoid the question, whether new extraordinary authority should be given to the President in advance and whether Congress should provide for the recovery from catastrophic disasters that is specific and targeted to the size of these unusually large and pervasive events.

The subcommittee looks forward to hearing the testimony of today's witnesses to help us address how we can prepare for these catastrophic events. We particularly welcome Administrator Fugate who has recently taken office and is testifying before this committee for the first time.



STATEMENT OF  
THE HONORABLE JAMES L. OBERSTAR  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY  
MANAGEMENT  
HEARING ON "POST KATRINA: WHAT IT TAKES TO CUT THE BUREAUCRACY AND ASSURE A  
MORE RAPID RESPONSE AFTER A CATASTROPHIC DISASTER"  
JULY 27, 2009

Today, the Committee will receive testimony on what steps the Federal Government, including Congress, can and should take to prepare for, respond to, recover from, and mitigate the risks of a catastrophic disaster.

In deciding whether and how to prescribe requirements and assistance applicable to a catastrophic disaster, beyond what is already available under the Stafford Act for a major disaster or emergency, the first step is to determine what constitutes a catastrophe. As many of today's witnesses point out, defining a catastrophe in statute is not an easy task, especially if it is to be a trigger for extraordinary Federal authority. While every disaster is a catastrophe for the individuals and communities affected by the event, Congress must take a broader national view.

Hurricane Katrina was undeniably a catastrophe, and one of the worst natural disaster in our nation's history. Yet recent international events remind us of the wrath of mother nature and the destruction that can occur, such as the 2004 tsunami

that struck in the Indian Ocean and the earthquake that struck China last year. These events killed hundreds of thousands of people, left millions homeless, and caused an incredible amount of destruction to communities and infrastructure. Unfortunately events of this magnitude are possible in this country. We owe it to our citizens and communities to be properly prepared for such events and mitigate the risks in the best manner possible to limit the destruction to property and the loss of life.

If we provide additional authority to address catastrophic events, it is clear that that authority must build upon the existing emergency management system, overseen at the Federal level by the Federal Emergency Management Agency (FEMA), which has served our citizens well in countless disasters.

Prior to Hurricane Katrina, when large or unusual disasters struck, FEMA worked with Congress to provide specific and targeted solutions to the problems identified in the recovery to those disasters. Unfortunately, after Hurricane Katrina, FEMA was not the flexible independent agency it once was; rather it was buried in the bureaucracy of the Department of Homeland Security.

Today, despite the modest reforms Congress enacted in the Post Katrina Emergency Management Reform Act of 2006, FEMA remains entrenched in DHS.

My opposition to this has been clear, and I continue to strongly believe that FEMA should be made an independent cabinet-level agency.

In the current reality, however, we may not be able to count on FEMA to have the authority to work quickly with Congress in the aftermath of a catastrophic disaster. For these reasons, we may need to be more prescriptive in statute than has previously been necessary, to provide FEMA with clear authority in the event of a disaster of catastrophic magnitude.

We will hear from witnesses today who have extensive knowledge and experience in emergency management who together can help this Committee build a record on what needs to be done to prepare for, respond to, recover from, and mitigate the risks of catastrophic disasters. I welcome each of you and look forward to your testimony.



Embargoed until delivery  
Monday, July 27, 2009  
2:00 p.m. (EDT)

For more information, contact:  
Cherae Bishop  
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**STATEMENT OF JOSEPH C. BECKER  
SENIOR VICE PRESIDENT, DISASTER SERVICES  
AMERICAN RED CROSS**

**BEFORE THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
Subcommittee on Economic Development, Public Buildings and Emergency Management**

**U.S. HOUSE OF REPRESENTATIVES**

Chairwoman Norton, Ranking Member Diaz-Balart and distinguished Members of the Committee, I am pleased to offer testimony today regarding catastrophic incidents and what our nation must do to better manage long-term disaster recovery efforts.

My name is Joe Becker, and I have led the national disaster relief program for the American Red Cross for more than five years. During this span, we have responded to a number of devastating natural and human-caused disasters, including four of the five largest domestic hurricanes. Today I will focus my testimony on the key issues impeding the long-term recovery of survivors of catastrophic incidents. Specifically, I will discuss housing issues, case management, citizen preparedness, and building resilient communities. Economic recovery, health care, and infrastructure concerns can best be addressed by others.

As you know, catastrophic incidents are defined by the National Response Framework as "[A]ny natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions." During the past ten years, we have experienced two domestic catastrophic events - the attacks on our nation on September 11, 2001 and Hurricane Katrina. The considerations offered in this testimony are shaped in large measure by observations from the response to these two events, and from the changes that were triggered by comprehensive reviews of these responses.

While September 11 and Hurricane Katrina were devastating events, we face very real threats that would make each of those events look small by comparison. Major metropolitan areas with populations significantly larger than those hit by Katrina are also vulnerable to hurricanes, and earthquake threats in densely populated areas would require responses several times the scale of Katrina. The scale and consequences from human-caused disasters have been well documented.

Without a doubt, we know that we will likely face disasters in the future that will cause human need on a scale many times greater than we witnessed in any previous event.

### **Housing: A Significant National Shortcoming**

The most obvious issue for disaster survivors in long term recovery is the severe shortage of intermediate and long-term housing. The solutions to this issue must take into account infrastructure needs, population densities, special needs requirements, cultural sensitivities, and potential dispersion of evacuees over great distances. Solutions must also clearly delineate roles across federal, state, and local government as well as NGOs.

As we move toward solutions to the housing shortage, the Red Cross is working closely with our partners to develop guidelines for operation of large “mega-shelters” that could make longer-term use of congregate shelters a more viable option. However, note that we view this as an interim solution, as use of shelters for extended periods creates significant emotional and physical stress. Extended use also has economic implications for the community, as it is unable to use the shelter facility (school, convention center, etc) for its original purpose. Our goal remains to move residents from shelters to more stable housing as soon as possible. A comprehensive, flexible set of housing options is what will make this transition possible.

Historically, much of the effort to address the housing shortage has been directed at development of viable manufactured housing solutions to augment existing vacant residential units. While there is utility in manufactured housing, this option should be viewed as a tool and not as an all-encompassing solution. The key to a successful approach is building a flexible menu of options that can be deployed based on the varying needs of communities. Rental assistance, existing Department of Housing and Urban Development (HUD) housing stocks, housing repair programs, transitional housing and manufactured housing have all demonstrated value in different recovery scenarios, and these programs should all be expanded. The simple truth is that the sum of the existing options for interim housing is still too small to meet the needs caused by a catastrophic disaster – and it will prove inadequate in the next large scale disaster. At a certain scale of event, there will still be housing needs that can only be met through resources outside the community. As we have seen, the result of a lack of housing in an affected area is the permanent relocation of large numbers of people. Just as the affected communities are trying to rebuild their economies, their workers and consumers are not able to return home due to a lack of housing options.

As we have seen from recent events, wide geographies can be affected in a catastrophic disaster, and our planning must identify solutions that can vary greatly from community to community. For example, mobile homes are not feasible in densely populated urban areas, and often not desirable in hurricane-prone coastal areas. Rural areas pose significant challenges as well, as it is difficult to ensure that the necessary infrastructure is available to support newly relocated populations. A menu of options for use by state and local governments “on the shelf” in pre-disaster planning is the desired end state.

Adequate housing solutions require more than just buildings; we also need to establish the necessary infrastructure for human and social services (security, healthcare, sanitation, day care, schools, shops, public transportation, etc.), to meet basic day-to-day family needs. In catastrophic disasters where large numbers of survivors are displaced over wide areas, the lack of social services amplifies the client need even when appropriate housing facilities can be provided. The provision of these services

requires close cooperation and clear role delineation between government units as well as NGO organizations able to meet the human needs.

As you know, the Post-Katrina Emergency Management Reform Act (PKEMRA) called on FEMA to create a National Disaster Housing Plan to address these kinds of issues. From this work, a National Disaster Housing Task Force was created to be the focal point of planning and implementation of the disaster housing strategy. This is critical work, to be sure. However, the Task Force is not funded, and participating agencies have been limited in the extent to which they can support this absolutely essential work. Moving forward, the American Red Cross supports strong consideration of additional funding to permanently support and expand this working group. Funding could enable participating agencies to hire full time members for the Task Force so that its important work can be completed and solutions to this critical gap can be identified.

The National Disaster Housing Task Force should develop a series of recommendations that FEMA endorses for housing survivors after a large scale event. This menu should be developed with the participation of state and local government, tribal units, business and non-profits. In addition, it should include a variety of housing solutions that have been researched, designed, prototyped, and contracted that meet urban and rural needs. These solutions should then be readily available to state and local governments whose own housing task forces would create local plans long before the disaster strikes.

A February 2009 special report on *Deficiencies in Federal Disaster Housing Assistance* prepared by the Subcommittee on Disaster Recovery of the Senate Committee on Homeland Security and Governmental Affairs recommended that regulations be simplified and that the Stafford Act be amended to provide enhanced assistance for catastrophic disasters. The American Red Cross supports these changes in principle, and also believes that it would be beneficial to more clearly define the roles of the various organizations that should be a part of the long-term solution. FEMA, the National Disaster Housing Task Force, the FEMA National Advisory Council, HUD, and the American Red Cross all have a significant role in developing the solutions. Ultimately, the country needs a menu of acceptable options that could be used by state and local governments on a case-by-case basis, planned in advance and on the shelf.

#### **Case Management – Integration Needed**

Like the term “catastrophic,” the term “case management” has many definitions. The Council on Accreditation (COA) defines case management as services used to “plan, secure, coordinate, monitor, and advocate for unified goals and services with organizations and personnel in partnership with individuals and families.” Effective case management is critical to the recovery efforts of survivors of catastrophic disasters—and of all disasters. Far too often, individuals and families “fall through the cracks” and do not receive the types of resources necessary to assist in their recovery. In addition, many individuals and families have pre-disaster conditions that have never been addressed, which compound their post disaster needs. The Red Cross trains case managers to be the primary advocate for their clients, and a good case manager understands both the clients’ needs as well as the resources available.

Often there are chronic, persistent needs following a disaster, and case management can continue for years. Today, nearly four years after Hurricanes Katrina and Rita, there are still nearly 2,000 families in temporary housing units in Louisiana. While there is some disagreement about exactly what should

be done to help these families, we all agree that coordination of resources across the many organizations that are working with these families is critical.

A key function of the caseworker in any organization is this coordination role. The Red Cross has nearly 12,000 trained caseworkers in our Disaster Services Human Resources (DSHR) system, and we are refining our training programs to place more emphasis on this increasingly important function. While there are practical limits to our resources, we have a strong understanding of the network of relief options available, and our volunteer caseworkers can connect affected individuals to the right organizations. After Katrina, various federal agencies created or expanded their own case management capabilities – FEMA, HHS, and HUD in particular provided these capabilities. What remains to be addressed is a comprehensive solution to case management that integrates these collective efforts.

#### **Citizen Preparedness – Moving the Needle**

Disasters can put individuals and families in an unfamiliar and frightening environment. And yet the true first responders in a catastrophic event are citizens themselves—people helping friends, families and themselves. There is no question that citizen and community preparedness helps to build resilient communities. Every individual and family that prepares before a crisis enables response agencies to focus on the most critical needs first. Further, those individuals that have taken basic steps are less likely to experience post-traumatic effects. Mental health studies have shown that individuals who have appropriate tools and mechanisms to address unexpected situations are more likely to return quickly to pre-disaster status. We need to make the necessary investments as a country to encourage citizen preparedness. The American Red Cross, DHS/FEMA and many states and cities have standardized citizen preparedness language to provide a consistent and compelling message for citizens. The three steps in this message for preparedness are common across all types of disasters and simple to follow, and yet we are barely moving the needle on the percent of those who are prepared.

The American Red Cross has learned in recent years that there are two key levers that can move citizens to become prepared – schools and employers. If a child comes home with an assignment to show the family emergency plan, parents are moved to act. If a worker comes home with a request from a supervisor that the family knows what it will do in an emergency so the employee can report to work, preparedness happens. By partnering with schools and businesses, we are making progress. But more must be done by government to partner with schools and businesses to prepare.

#### **Building Resilient Communities**

On a different note, big disasters can also present a potential opportunity. Depending on the nature of the disaster, communities may have a window of opportunity to introduce mitigation and urban planning measures. While many communities are overwhelmed simply trying to rebuild what was lost in a disaster, many are in a position to both rebuild and mitigate future disaster effects with appropriate attention to building codes and local regulations. Homes can be built to better withstand disasters and to take advantage of new green building options. Businesses can align themselves to emerging needs in the community. Infrastructure can be restored with additional back-up systems in place. It is clear that mitigation pays dividends.

However, in order for mitigation and urban planning measures to be put into effect, recovery planning needs to be initiated quickly. Preparedness planning now means that recovery planning can be initiated sooner, and the community can rebound more quickly. Government can play a major role by

making key investments and working with community and national organizations. To assist in the rebound, the country needs a well developed National Recovery Framework that emphasizes the critical role local communities and states play following disasters, outlines considerations and options, and brings resources from government, the private sector, and other entities into the recovery process.

In May 2008, I testified before the Senate Homeland Security and Governmental Affairs Committee regarding the mass care and medical surge needs to respond to a nuclear attack on the United States – a specific type of catastrophe that has unique capability shortfalls. Some of the issues raised are relevant to today's discussion. First, the national capacity to deliver timely, appropriate, and consistent public information in a nuclear scenario is not in place. Second, decontamination capabilities vary widely among cities and are unlikely to exist with sufficient capacity. And third, it is unlikely that public donations will support the capacity needed to deliver services on the scale that can be forecasted in a nuclear or other catastrophic event.

### **Recommendations**

As we continue to respond to disasters, we are gaining a deeper understanding of the effects and limitations of a catastrophic event. Moving forward, a number of practical steps can and should be taken to increase readiness and improve mass care capabilities. These recommendations can be summarized in the following four steps:

1. Fund and monitor the National Disaster Housing Task Force as it creates housing options, plans, templates and operational capability;
2. Integrate federal casework management among the various agencies to coordinate support for client needs beyond living facilities in long term recovery;
3. Further develop a national recovery framework that provides clarity to state and local officials on options and methods for meeting long term needs; and
4. Include mitigation and citizen preparedness in pre-disaster planning templates for state and local government.

### **Conclusion**

Madam Chairwoman and distinguished Members of the Subcommittee, thank you for providing me with the opportunity to testify before you today. This great nation continues to make improvements in our ability to respond to and recover from disasters, and we are learning the lessons from our past disasters as we strengthen our capabilities.

I thank you for your work in this area, and look forward to our continued work together on these critical issues.

I am happy to take any questions.

###

**Committee on Transportation and Infrastructure, Subcommittee on Economic  
Development, Public Buildings and Management**

**Questions for the Record following the Testimony of Joseph C. Becker of the  
American Red Cross, July 27, 2009**

1. *In your testimony you state that housing is a "significant national shortcoming." Can you please elaborate and also explain what steps the American Red Cross is taking to address this?*

The significant national shortcoming that I referenced in my testimony is for immediate and long term housing solutions when housing stock is not available. In disasters, emergency shelters are designed to meet immediate needs for periods of days or weeks. While these shelters are a welcomed site to families seeking shelter from a storm, they are typically set up quickly with congregate-style sleeping areas that are not an acceptable long-term housing option.

In recent years, short-term shelters have been pressed into service as a longer term housing option. To correct this deficiency, we need to create a more extensive menu of housing options that will be effective in both urban and rural settings. Use of housing stock, issuance of rental vouchers, provision of mobile homes, and provision of travel trailers is a start. However, some of these options will be infeasible depending upon the local geography or the availability of infrastructure.

To assist in addressing this issue, the Red Cross is committing staff and resources with expertise in emergency sheltering and client services to work with FEMA's Housing Task Force, including a participant on the task force. The Red Cross' role is to move clients into longer term housing, so we have a keen interest in participating in the process to develop adequate options.

It is important to keep in mind that a housing solution requires more than just physical assets for housing. Also critical are the services and infrastructure like schools, stores, and medical services that are needed to support housing. In light of these additional requirements and in light of the overwhelming needs that could be created by a catastrophic scenario, we must acknowledge that we may need to move clients out of the affected area. A well-crafted housing plan needs to include long-term relocation as an alternative.

2. *The final National Disaster Housing Plan was issued in the evening on the last business day of the Bush Administration. Do you believe this plan is adequate for addressing housing needs after catastrophic or even lesser disasters?*

The National Disaster Housing Strategy, released on January 16, 2009, does an adequate job of listing available options and programs. It is complemented by the

2009 Disaster Housing Plan, which provides more specifics. However, these two documents are not adequate in providing operational details for these options.

The Strategy called for a Concept of Operations to be developed by the National Disaster Housing Task Force. The working document is currently entitled Guide to Disaster Housing and it is intended to be an operational framework. Again, it is important for any framework to acknowledge that certain scales and types of events require relocation of clients due to a lack of local infrastructure. The Guide to Disaster Housing is scheduled for completion in February of 2010.

3. *FEMA was given new Stafford Act authority for case management in the Post Katrina Emergency Management Reform Act. Is the Red Cross working with FEMA on developing case management capabilities? What else is the Red Cross doing on providing case management services?*

Historically, the Red Cross has focused its efforts on meeting the critical needs of families early in a disaster response. This includes providing important information and access to resources and assisting families in initiating a recovery plan. The initial data collection and needs identification then feed directly into longer term case management efforts through a system called the Coordinated Assistance Network (CAN). CAN is accessible by volunteer agencies and local/state/federal programs.

Moving forward, the Red Cross is working closely with both FEMA and HHS to ensure an optimum level of coordination in the case management process. In the past year, the Red Cross has begun implementation of a program that will make client data accessible to government and non government partners sooner – right as we meet families and individuals at their homes. This approach focuses efforts on meeting critical early needs as well as on providing linkages to partner agencies (both governmental and non-governmental).

4. *What do you think should be in a “National Recovery Framework”?*

While the National Response Framework has a strong federal focus, a well crafted Recovery framework should start at the state and local level and should first address how a community recovers. How the federal government resources the community is a component of recovery, but should not be the primary focus of the document.

Testimony Before the  
U.S. House of Representatives  
Committee on Transportation and Infrastructure  
Subcommittee on Economic Development, Public Building and Emergency  
Management  
July 27, 2009  
Presented by  
Jane A. Bullock  
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Madam Chairman, Ranking Member and other distinguished Members of the Committee, I appreciate the opportunity you have provided to present testimony on how to cut bureaucracy and improve our ability to respond and recover from a catastrophic disaster.

My testimony is based on my 22 year career at the Federal Emergency Management Agency (FEMA) culminating as Chief of Staff to Director James Lee Witt during the Clinton Administration, and the past 8 years working with local communities and nonprofit organizations to improve their disaster services capabilities. As Chief of Staff of FEMA, we worked with communities to recover from over 300 Presidential disasters including the Northridge earthquake, Hurricanes Fran and Floyd and the Oklahoma City Bombing. Although we had many, many significant disasters, none of them became National catastrophes. The geographic scope and level of damage of these disasters could have made them catastrophes. For example, there was more infrastructure damage from the Northridge earthquake than in Hurricane Katrina; Hurricane Floyd impacted a larger geographical area than Katrina, etc.

They were not catastrophes because: (1) we had developed a solid partnership with State and local emergency managers, whereby they were the first responders and we at FEMA provided supplemental support as they needed, (2) we operated under a Federal Response Plan where each Federal agency, including the Department of Defense, knew what was expected of them during a disaster response and also during the recovery period and had agreed to provide that support at the request and direction of the FEMA Director, and (3) we had leadership from the President on down committed to cutting red tape, being innovative and doing everything possible to help individuals and communities recover quickly from disasters.

In my opinion, FEMA is not a first responder Agency. First response is the Constitutional role of State and local governments as is preparedness. FEMA is responsible for facilitating recovery and promoting mitigation. While the Stafford Act provides FEMA with the authority to respond in support of State and local government needs, it authorizes the true role of the Federal government to provide the resources and programs to facilitate community, State and Regional recovery. It is within this context that I would like to provide some thoughts and suggestions on how to enhance community recovery before and after a catastrophic disaster. My comments will focus on potential impediments and opportunities for recovery and mitigation in the post disaster environment and existing organizational concerns for response and recovery.

In the immediate aftermath of any disaster, what individuals and communities want the most is to get back to "normal" or to get their community and lives back to how they were before the disaster. This return to normalcy often impedes a community's opportunity to rebuild better, safer, and more environmentally and economically sound. Furthermore, inflexibility and rigid

regulations on the part of many Federal government programs tend to reinforce returning a community to its predisaster status. It is in the government's best economic and social interest to support a sound recovery but more importantly, to support recovery and rebuilding of safer communities. This country missed that opportunity after Katrina but we have the potential to correct that situation for the future by exploring the issues raised by this hearing.

First, I would suggest that President should have the flexibility to request of Congress authority to waive certain regulations and statutory requirements in the aftermath of a catastrophic disaster to facilitate recovery such as:

1. Allow for innovation in the Community Disaster Loan (CDL) program relative to the resource level, application and potential forgiveness of this program.
2. Allow for waiving of the match requirements provided by the State for the Individual and Family Grant programs.
3. Allow for waiving of the match requirements for hazard mitigation grants and support funding for mitigation innovation.

In the aftermath of a catastrophe with its inherent impacts to infrastructure, businesses and the tax base of a community, the CDL program can become a lifeline to allow that community to begin to rebuild. Because of certain isolated abuses of this program during the 1990's, CDL has been somewhat "blacklisted" in recent years. However it is often the essential means for a community to continue its administrative and legal operations. In the aftermath of a catastrophic disaster, the CDL is an essential lifeline for communities and, with the appropriate safeguards; this program could be expanded in scope. Things to be considered are increasing the amounts available for these loans, providing more flexibility in what these loans can be used for within the community, identifying what functional uses and increased opportunities are available to improve the timeliness, and the terms of repayment and forgiveness of CDL needs to be reconsidered.

The State is responsible for providing the cost share for Individual and Family financial grant programs provided through FEMA. There have been numerous examples of State's not being able to meet the match requirements, leaving communities to scramble to find the funding or create a patch work of funding that delays the delivery of recovery assistance. In fact, we had so many experiences with this problem in the 1990's that FEMA proposed eliminating the match when the Disaster Mitigation Act of 2000 was being deliberated. Unfortunately, it was not included by the Senate in the final legislation. However, under unique catastrophic circumstance, the President should have the ability, in consultation with the impacted Governor's and the Congress, to waive the match requirement short of legislation being passed.

I spent most of my career promoting mitigation as our long term solution to reducing the impacts of disasters. I have always found it ironic that people talk about how important mitigation is but

there is never the commensurate proportion of funds or political support for implementing mitigation. In the aftermath of a disaster, the window of opportunity to apply mitigation techniques to a community's rebuilding is at its highest. Congress and FEMA recognized this by supporting the post-disaster hazard mitigation grant program. However, the 25% statutory matching requirement often makes implementation and use of this program's funds difficult especially when communities and States are hard pressed for cash in the aftermath of a disaster. This will be particularly true in a catastrophic disaster. To reduce future impacts we must incorporate mitigation in our rebuilding. In this context, the President's ability to waive the matching requirements on 404 Hazard Mitigation Grant Program as well as some of the pre-disaster planning requirements would be extremely beneficial. Allowing funding under the Disaster Relief Fund (DRF) of innovative or experimental mitigation programs after a catastrophe should be considered.

For example, in the aftermath of the Northridge Earthquake, FEMA initiated a pilot project that rebuilt certain critical hospital facilities to a mitigation standard beyond just life safety as required by code. FEMA supported rebuilding so the hospital would have continued functionality after a major earthquake. FEMA came under scrutiny and criticism for doing so but the idea was that you would absolutely need these critical facilities to function and to care for victims, not just survive after a major disaster. In the aftermath of a major catastrophe, the President should have the latitude to support the rebuilding of critical facilities to a more stringent code of continued operability to assure functionality in that community after the next disaster. Language to allow this flexibility in the aftermath of a catastrophic event would be very beneficial and not just for hospitals but for other critical facilities.

Second, Congress could encourage and support activities that will improve coordination and designate roles and responsibilities among Federal agencies in the aftermath of a catastrophic disaster and facilitate pre disaster community recovery planning

1. Establish an interagency activity that provides an understanding of what programs and funding each Federal agency could provide to communities in the aftermath of a catastrophic disaster.
2. Support a pilot program that would allow certain disaster prone communities to receive funding to do pre-disaster recovery plans and strategies for post disaster recovery.
3. Allow for greater access and support partnerships with the private sector to foster recovery.
4. Relook the approach to disaster housing that includes innovative programs among the private and nonprofit sectors.

If a catastrophic disaster were to occur today, there is no coordinated approach among the Federal agencies for working with those communities to recover. In the 1990's FEMA would convene a task force of Federal agencies to develop a report of what government programs could be applied for community recovery. It was an ad hoc process at best and had varying degrees of success. A more systematic and thorough approach, perhaps a catalog of what would be available to communities would facilitate the recovery process. As part of this cataloging, a look at what regulations might require waiver in the context of a disaster would be useful as well as how these programs can be combined to support various recovery activities. The ultimate goal would be to provide community leadership with a menu of options that could be leveraged with private and nonprofit support to support a recovery plan.

As was mentioned earlier, post disaster may not be the best time to take a long strategic look at a community recovery because of the pressures to return to normalcy. Many communities in disaster prone areas know they will face a disaster in their future. Wouldn't it be nice to be able to plan a recovery strategy in a less hectic atmosphere than that of a disaster response? Congress should consider supporting a pilot program where selected communities could assess their current community profile, assets, development plans, infrastructure and social and economic programs and decide how they would react in the event of a catastrophic disaster. How responding to the impacts of a disaster would allow the community to exercise changes to the community to make it more economically and socially sound. As a pilot, it would allow the community to decide its future and incorporate green/environmental/land use decisions that reduce risk in the future and have a plan agreed on by the community that it could execute in the aftermath of a disaster. This would facilitate the flow of Federal recovery assistance. In addition, the community would have secured commitments of private sector funding for various projects and general community approval so recovery and rebuilding would more forward expeditiously.

The private sector has never been embraced as a true partner in disaster recovery yet they are responsible for significant parts of any community's recovery. During a catastrophic disaster this will be increasingly more important as their ability to recover, especially when considering critical infrastructure is primarily private, will be critical. The Federal government must enter into partnerships with the private sector where their needs and resources are integrated into any response and recovery strategy. The private sector needs access after disasters and need to be key partners in coordination for recovery.

We do not yet have an answer for the problem of Disaster Housing in the aftermath of a disaster or a catastrophic disaster. Current thinking is that the Disaster Housing Application Pilot (DHAP) under taken by FEMA and the Department of Housing and Urban Development (HUD) offers some alternatives. I am uncertain as to what the DHAP will do in the immediate aftermath of a catastrophic disaster. FEMA is the main source of funding and FEMA should be, and is, looking at alternatives that include options beyond trailers and mobile homes. There are several

groups in the nonprofit sector such as Socialserve and Neighborhood Works America that look at housing options on a daily basis and have data bases that could be applied. However, why not look at these programs as an opportunity to foster green building – even of a temporary sort in communities. The objection by the States of mobile home parks was legitimate and, as we have experienced, they represented all sorts of problems to FEMA and the community. There is clearly a role for HUD to play in the more long term housing programs but isn't this an opportunity for FEMA to innovate and define/determine some alternatives that could be used in the event of a catastrophic disaster. I believe earlier changes to the definition of permanent in the Stafford Act gives FEMA substantial latitude in decision making on this issue. If we were to consider pre disaster recovery planning in certain communities, decisions on post disaster housing could be part of those plans. FEMA and HUD could work together to identify substandard housing in high risk areas and develop plans for how they would be rebuilt when that high risk area experiences a Presidential disaster.

Finally, I continue to be very concerned about FEMA being a part of the Department of Homeland Security as opposed to being an independent Agency reporting to the President. I firmly believe that this organizational circumstance will impede its ability to not only respond but certainly support the long term recovery of communities in the aftermath of a catastrophic disaster.

I commend the Obama Administration and Secretary Napolitano for appointing incredibly qualified individuals as Administrator Craig Fugate, Jason Mc Namara, Bill Carwile, Tim Manning and Beth Zimmerman and I know they will serve well should there be a major disaster but their presence doesn't negate the bureaucratic issues that remain within the construct of DHS.

FEMA does not belong in DHS. DHS is a law enforcement agency with a Federal top-down approach. DHS makes policies and laws and administers programs that State and local governments and the private sector must adhere to and comply with at risk of Federal penalties. All the different parts of DHS support that mission except FEMA. FEMA is an agency whose mission is to support States, communities, private sector and individuals during their time of need, during a disaster and to work with all of these partners to reduce the potential impacts of future disasters. The mission of FEMA is incompatible with the mission of DHS. DHS wants to stop any future terrorist attack by guarding our borders, our skies and our air, an incredibly important goal which requires surveillance, intelligence, protection and perimeter prevention. FEMA wants to make individuals, institutions and communities stronger through mitigation, preparedness and recovery. These very divergent missions require a different set of capabilities and certainly a different mindset.

I know that this Committee has offered legislation that would seek FEMA independence and I applaud the Committee for doing so. I also know that the Obama Administration, through

Secretary Napolitano has indicated that they think through their leadership FEMA can perform within the DHS bureaucracy.

I am extremely concerned that in spite of their best motives and excellent leadership, there are certain aspects of this organization that will prove difficult for FEMA to effectively respond to or accelerate recovery from any catastrophic disaster.

The Post Katrina Emergency Management Reform Act was intended to strengthen FEMA, put a fence around its authorities, resources and mission. However, shortly thereafter the DHS Office of Operations Coordination was created and given functions that duplicate some of FEMA's functions.

I would encourage the Committee to request that DHS explain how the DHS Office of Operations Coordination will function in a catastrophic disaster vs. the FEMA Operations Center. Standard operating procedure has always been that local and State governments report through the FEMA Regions to FEMA Headquarters Ops center before, during and after a disaster and then FEMA Ops Center reports to DHS. But what has happened was the DHS Ops Center received information from FEMA and then proceeded to call State and local governments requesting the very same information causing more work and confusion at the State and local level. I don't see this change in the near future but the Committee could request that DHS designate the FEMA Ops Center as primary information collection entity in DHS in disasters and request DHS issue clarification on their respective roles.

Legal decisions on programs, application of programs and adaptability of program regulations during a disaster were routinely handled by the FEMA General Counsel and Legal Affairs Office where most of the personnel had extensive years of experience in disaster issues. DHS has centralized the general counsel function and the General Counsel for FEMA now reports to the DHS General Counsel not the Administrator of FEMA. There are numerous incidents of the DHS General Counsel over ruling decisions made by the FEMA General Counsel in spite of the fact that the FEMA rulings were based on FEMA laws and disaster precedence. There exists much concern that should a catastrophic disaster occur, interpretations of the law based on disaster precedent and the innate flexibility of the Stafford Act will be over ruled by less informed DHS lawyers. Consideration should be given to allowing the FEMA Administrator to have his or her own independent General Counsel

As I mentioned earlier, aspects of PKEMRA have still not been implemented and need to be addressed by DHS/FEMA. It is concerning that the idea of a Primary Federal Official (PFO) is still being expressed by DHS with the assumption it will be Secretary Napolitano. As this Committee knows, this is a superfluous position that serves no real function but to give the Secretary of DHS some visible level of authority in an event. The Secretary of DHS is not chosen for his or her abilities to function in a disaster but for their law enforcement/border

control/immigration experience which has virtually nothing to do with an ability to function effectively during a disaster. As long as FEMA has to remain within the constructs of DHS, there should be a clear recognition, as called for in PKEMRA that during a disaster the Administrator of FEMA is in charge. In response to the DHS Homeland Security Quadrennial Review or in any future legislation, the Committee could consider requesting that the Administrator of FEMA be named the PFO since DHS seems reluctant to retire that title.

FEMA will always be a second tier player in the bureaucracy of DHS where resources can be diverted to other priorities within DHS as was recently indicated by the 2010 Budget. FEMA remains inconsistent with the DHS mission and there is nothing that FEMA gains by being in the Agency. People say that now it has ready access to resources such as the Coast Guard. A cursory look at disasters during the 1990's will show that FEMA, through a Mission Assignment to the Department of Transportation, pre agreed to as part of the National Response Plan, utilized the Coast Guard in numerous disasters.

There are no benefits to FEMA, being in DHS.

If we really want to address the issue of reducing bureaucracy for response and recovery in the next catastrophic disaster, the answer is to move FEMA out, make it an independent Agency and reestablish a Federal Response Plan and Recovery Plan that all other Federal agencies agree and commit to performing their functions and supporting recovery with their resources and programs.

Hurricane Katrina was a failure of leadership at all levels but in spite of that failure certain bureaucratic actions and decisions within FEMA would have occurred to ameliorate certain circumstances but they didn't happen because FEMA was unable to make those decisions and take action. FEMA had to seek approval from DHS. FEMA couldn't get needed help from the Department of Defense because the request needed to come from the DHS Secretary. The players under the Obama Administration are very different and committed to providing service but I wonder, considering all of the current constraints, whether the process will work any more smoothly, especially since fundamental decision making that needs to reside at FEMA still is controlled at the DHS Executive level.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

**Jane Bullock**  
**Principal Bullock and Haddow, LLC**  
**Former FEMA Chief of Staff**

Based on your experiences in emergency management both in and out of FEMA, what do you see as the major differences in how FEMA and Federal Government, prepares for response to recovers from and mitigates disasters, including catastrophic disasters, now and when you were Chief of Staff at FEMA to James Lee Witt?

**The most fundamental difference is that during the Clinton/Witt Administration, FEMA focused on building a cooperative and collaborative partnership with local and State governments, other Federal agencies non-profits and the private sector. These partners were our customers and FEMA was there to support and supplement their actions and resources when requested. Subsequent to Witt's FEMA, they adopted a top-down approach with FEMA telling State and local governments what to do, how to plan and threatening them with withholding of funds if States and localities were not in compliance. The common sense, all hazards approach was rejected and States and localities were coerced into focusing on terrorism even if the probability of a terrorism event was low but the probability of a hurricane was high. In addition, during a response, Witt's FEMA operated under a Federal Response Plan(FRP) that 26 Federal agencies had agreed to and understood what their roles and responsibilities were in the event of a disaster. Through the FRP, State and local governments clearly knew what could be expected of the Federal government in the aftermath of a disaster. The current National Response Framework is confusing to potential participants and recipients at all level of government, and in the private sector.**

**Another fundamental difference between Witt's FEMA and the subsequent Administration was a focus on mitigation. FEMA in the 90's recognized the value of mitigation as he most effective way to reduce future disaster costs and ensure economic and social stability in our communities. We made mitigation a priority at all levels of government by expanding funding for mitigation in the post disaster environment when public and private sentiment is most supportive. We created Project Impact: Building Disaster Resistant Communities (PI), a program designed to encourage communities to undertake pre-disaster mitigation. This program, which provided only seed monies to communities was successful in finally engaging the business and private sector communities in emergency management. Their support and leadership leveraged small Federal dollars into millions of dollars to support mitigation in over 250 communities across America. The effectiveness of Project Impact was tested after an earthquake hit Seattle, a PI community. The Mayor of Seattle declared that the actions they had taken as a PI community accounted for the minimal damages they had after that earthquake. The program was summarily killed by the Bush Administration.**

How did the country miss the opportunity to rebuild safer communities after Hurricane Katrina?

**Unfortunately I believe there were two major factors. One there was a lack of vision and no leadership at any level of government, Federal, State or local, post Katrina, to**

seize the opportunity to incorporate mitigation practices that were already proven from other disasters, including better siting and building practices and more environmentally and energy efficient construction. Second, the Office of Management and Budget(OMB) within the Bush Administration was looking at limiting the costs for rebuilding the areas impacted by Katrina. Opportunities to incorporate mitigation measures, especially in the rebuilding of infrastructure were deemed to be not eligible because of lack of maintenance or too costly.

What are your concerns about the office of Operations Coordination at the Department of Homeland Security? Do you believe this office conflicts with the role of FEMA and impedes the ability to respond to and recover from disasters? If so, is this a greater risk in catastrophic disasters?

In talking with State and local officials, they complained loudly that during an event, they would have to respond to requests for the same information from both FEMA and the Office of Operations Coordination. This compounded their questions as to who is in charge in a disaster. During a catastrophic disaster the chain of command must be extremely clear and transparent. Those impacted by a disaster can't be spending time answering to multiple requests. I would hope that this issue has been thoroughly discussed and resolved among the new leadership of the Department of Homeland Security(DHS). Only one entity can be in charge in a disaster, only one entity should be the source of information collection and distribution and it must be FEMA.

What were some of the "abuses" in the Community Disaster Loan program and do you think they should be an impediment to expanding that the size of those loans especially in a catastrophic disaster?

The major abuses experienced in the CDL program during my time at FEMA were evidenced in disasters that occurred in the Virgin Island and the US territories that, at that time, were still covered by the Stafford Act. These abuses included misunderstandings as to what the funds could be used for, failure to repay funds and multiple requests for CDL assistance. I think these were somewhat isolated incidents. The CDL program is an essential tool for allowing communities to recover after a disaster and there are significantly more examples of where this program worked well than where it was "abused". I would hope the Committee would consider expansion of this program.

You mention steps FEMA took to rebuild hospitals better after the Northridge Earthquake. Was this under the general authority of the Stafford Act or specific authority for that disaster?

The beauty of the Stafford Act is it recognizes that each disaster is unique and the recovery and rebuilding of communities after a disaster may require different approaches. After the Northridge earthquake, it was recognized that the damages to the hospitals resulted in them being unable to function and care for injuries resulting from the quake or future medical needs of those communities. While the Northridge quake was damaging, scientists were clear to point out that an even larger quake was

possible in Southern California in the future. Recognizing that should this future quake occur, the ability of hospitals to function in the aftermath was critical. That fact made the decision that Stafford Act funds would be used to rebuild the hospitals beyond the existing life safety code to a continued functioning code just common sense. While this interpretation of the Stafford Act was criticized by the FEMA Inspector General, was later endorsed as consistent with the intent of the Stafford Act by an independent Committee established by FEMA. Since the probabilities of a major quake in Southern California have increased, the wisdom and flexibility of the Stafford Act as applied after Northridge, I believe will prove to have saved lives.

What are your views on the Disaster Housing Application Pilot (DHAP) developed after Hurricane Katrina? How do you think this program would work in the aftermath of a catastrophic disaster?

**I am not an expert on the DHAP but I have strong concerns over expanding the role that the Department of Housing and Urban Development(HUD) has in disaster housing. It is clear that HUD has potential assets that could be applied in the post disaster environment but I question whether they have adequate administrative infrastructure to support the program. FEMA has provided HUD with significant funds to enhance the existing infrastructure but I am not sure that the DHAP is the answer to disaster housing needs. FEMA needs to develop a menu of options that could be activated dependent on where the disaster occurs, how many people are displaced and local needs. For example, there are nonprofit organizations such as SocialServe that have data and systems that track available housing could be utilized more efficiently and cost effective modular housing alternatives could replace the usual mobile homes approach.**



**Statement of Russell Decker, CEM, President**  
**International Association of Emergency Managers-USA Council**  
**Before the**  
**Subcommittee on Economic Development, Public buildings and Emergency Management**  
**Committee on Transportation and Infrastructure**  
**U.S. House of Representatives**  
**On**  
**“Post Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid Response**  
**After a Catastrophic Disaster”**

**July 27, 2009**

Madam Chair, Ranking Member Mario Diaz-Balart, and distinguished members of the Subcommittee, I appreciate this opportunity to provide testimony on this important topic.

I am Russ Decker, the Director of Emergency Management and Homeland Security for Allen County, Ohio. Allen County is a mid-size rural county in northwest Ohio with a population of just over 100,000. I currently serve as President of the USA Council of the International Association of Emergency Managers (IAEM-USA) and I am testifying today on their behalf. I have nineteen years of emergency management experience, with the last eleven as a local director. I have also served as President of the Emergency Management Association of Ohio.

IAEM-USA is our nation’s largest association of emergency management professionals, with more than 4,000 members including emergency managers at the state and local government levels, tribal nations, the military, colleges and universities, private business and the nonprofit sector. Most of our members are city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the

effects of, respond to, and recover from all types of disasters including terrorist attacks. Our membership includes emergency managers from large urban areas as well as rural areas.

Defining exactly what is a disaster or a catastrophe is a surprisingly difficult thing to do. There are definitions in law, in academic research, and in everyday use. Those of us in the field clearly understand that when an incident is on the news, it is an emergency; when it affects someone we know, it is a disaster; and when it affects us, it is a catastrophe. However, it seems like there should be a more rigorous and objective definition of these things.

One of the most frequent places we look for a definition of a disaster or catastrophe is in our nation's laws. We can find the definition of an emergency and a major disaster in the Robert T. Stafford Disaster Relief Act, as amended (42 USC 5122).

**EMERGENCY.**—“Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

**MAJOR DISASTER.**—“Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

We can find a definition of catastrophic incident in the Post Katrina Emergency Management Reform Act (PL 109-295).

The term “catastrophic incident” means any natural disaster, act of terrorism, or other man-made disaster that results in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area.

Disaster researchers have defined disasters in a number of ways. The first widely-recognized definition of disasters comes from the National Opinion Research Center (NORC) at the University of Chicago (Barnshaw, Letukas, Quarantelli, 2008: 2). Charles Fritz characterized a disaster as an “event concentrated in time and space, in which a society or one of its subdivisions undergo physical harm and social disruption, such that all or some essential functions are impaired (Ibid, 2008: 2).”

The interesting thing to note about these definitions is that they are primarily *qualitative* in nature, rather than *quantitative*. This also follows academic research, which suggests that the difference between emergencies, disasters, and catastrophes is *qualitative* or perhaps even *organizational* in nature.

In fact, Quarantelli (2000) suggests the basic differences between emergencies and disasters is *organizational* in nature and consists of four major elements:

First, in contrast to everyday emergencies, local emergency response organizations have to quickly relate to more and unfamiliar groups during the occurrence of a disaster. Second, these same emergency response organizations have to adjust to losing part of their autonomy and freedom of action. Third, local emergency response agencies must apply different performance standards during disaster response and recovery. And, fourth, local emergency response agencies must operate within a closer than usual public and private sector interfaces (Quarantelli, 2000: 1-2).

There are suggestions that the difference between a *disaster* and a *catastrophe* can be found in certain social behaviors (Quarantelli, 200: 2). There are four main characterizations of these behaviors (Ibid). First, most if not all of the built environment in the community is heavily impacted in a catastrophe as compared to a disaster. Second, local officials (including first responders) are unable to undertake their usual work roles – extending, potentially, into the recovery period. Third, most (if not all) of the everyday functions of the community are simultaneously interrupted. Fourth, help from nearby communities may not be readily available (Quarantelli, 2000: 2-3).

Interestingly, academics suggest that “disasters and catastrophes can not be distinguished on the basis of the hazards and / or risks that are present (Barnshaw, Letukas, Quarantelli, 2008: 8).” Instead, it is suggested that “social factors” (Ibid, 8) are what made the difference between an accident, a disaster, or a catastrophe.

The academic argument regarding catastrophes recognizes that hazards and risks must be present, but they are not the only dimensions necessarily involved in a disaster (see comment regarding “social factors” in previous paragraph).

It is relatively easy to attach numbers – in an attempt at quantification – to hazards. One set of relatively well known examples consists of the rating systems utilized for tornadoes, hurricanes, and earthquakes. It is relatively easy to describe a tornado as an EF-5, or a hurricane as a category 3, or an earthquake as VII on the Modified Mercalli intensity scale. However, these quantifications of disaster have relatively little impact on whether the incident was actually a disaster or a catastrophe. To help paint the picture we are trying to create about numbers – imagine an EF-5 tornado billowing through the wide open ranges of Wyoming. The odds are – depending on the exact location of the tornado – that relatively little would be damaged. However, imagine that same EF-5 tornado crushing metropolitan Columbus. What a different image we see – all with a hazard that has the same classification. The difference between these examples is the difference between wide open spaces, and a densely settled urban area. This is why it is so difficult to have quantifiable triggers utilized to define a catastrophe.

Similarly, the number of fatalities associated with a hazard or risk is not a reliable trigger to determine whether an event is a disaster or a catastrophe. One of the best known catastrophes on our globe was the melt down of the nuclear reactor at Chernobyl in Russia. While relatively few fatalities were associated with this event, there is general agreement this was a catastrophe on a

global scale. This leads us to another set of considerations in our effort to identify catastrophes – the area impacted, and the speed of onset. These two factors, in combination with a supposition of differing land uses in the area impacted by the hazard or risk comprise the definition of catastrophe as developed by academic researchers (Barnshaw, Letukas, Quarantelli, 2008: 6-13).

The basic question asked by this hearing is what needs to be done to reduce the bureaucracy and ensure rapid response to catastrophes. We were also asked to comment on the sufficiency of current authority and possible new authority for the Federal Government’s response and recovery efforts after a catastrophic disaster. We have extensively discussed the fact that defining a catastrophe is difficult to do. However, the response by the Federal Government to catastrophic events needs to clearly follow these principals:

- Federal assets need to be brought to bear against the problem – regardless of where the resources are located.
- This must be done in a manner that recognizes our country was created with State and local governments in charge of responding to emergencies, disasters, and catastrophes.

You will recall that one of the distinguishing element of a catastrophe as identified earlier in this document is that the hazard or risk impacts a large area, which makes assistance difficult or impossible from nearby jurisdictions – whether other communities, counties, states, or regions. This is an element that makes the rapid mobilization of federal resources imperative. However, those same resources must respect the civilian “chain of command” in the jurisdictions to which they are mobilized.

Therefore, it stands to reason that given the difficulty – perhaps even inadvisability – of defining a catastrophe, IAEM-USA believes caution is in order when considering modifications to laws, policies and authorities. I would urge caution in making statutory changes which enhance the role of the federal government (including the military) at the expense of the authority and responsibility of state and local governments even in what some would describe as “catastrophic” events.

I would also like to re-emphasize a position which IAEM-USA has consistently espoused since the abysmal experience of Hurricane Katrina – the key to effective management of any major event is the rebuilding of the essential Emergency Management System within the United States. This rebuilding must include the restoration of resources, personnel and authorities of Emergency Management agencies at all levels of government (including full compliance with the Post Katrina Emergency Management Reform Act.) Without such a collaborative, coordinated and comprehensive system, we will not have the ability to act decisively and with sufficient flexibility to deal with any crisis, regardless of definition. Any semantic distinctions are basically irrelevant unless this primary task is undertaken in a serious way.

We need additional focus on strengthening emergency management at the state and local levels. The stronger the state and local emergency management the less assistance that will be needed from the Federal government. In these tough economic times, more needs to be done-- not less.

Regardless of what we call them, major events require preparedness efforts and planning that extend far beyond simply response related activities. Response is easy; recovery is hard. It requires a recognition at all levels that the emergency management function must be carried out by trained and experienced professionals who understand and can deal with the social, economic, political and psychological impacts of major disaster events. These considerations require a vision far beyond the initial response to a disaster. To deal with these key issues effectively it is imperative that the emergency management agencies should report to the highest elected or appointed officials in their jurisdictions.

We are pleased with the appointment of such experienced emergency managers to FEMA positions—Craig Fugate, Tim Manning, Bill Carwile, Beth Zimmerman, and Jason McNamara. We just ask that they be given the authority to do their jobs and the resources they need. In addition, we hope the Administrator of FEMA will be given the opportunity by DHS and the Congress to realign some of the functions within FEMA to better serve the mission.

We also urge that the President select FEMA Regional Administrators who are experienced emergency managers. These positions are a vital link between FEMA headquarters and the state and local officials.

What is needed most in any disaster and especially in a catastrophic event is flexibility of action and speed in decision making. We do not need duplication of responsibilities and confusion over the chain of command.

One of the efforts that would cut bureaucracy would be to not allow duplication of FEMA's mission or responsibilities in other parts of DHS. Although the intent of Congress in the Post-Katrina Emergency Management Reform Act (PKEMRA) was to put a fence around FEMA, give it authority to do its job, and basically make it an independent agency within the Department of Homeland Security (DHS), duplicate responsibilities have been given to the DHS Office of Operations Coordination. For example, our members have reported that after they responded to requests from FEMA for disaster related information, they received calls from the Office of Operations Coordination requesting the same information. Upon being told that the information had been already been provided to FEMA, the officials said they needed to verify the information. This does not instill confidence in our Federal partners. It confuses our members and certainly sends the wrong message. We recognize the Secretary of DHS needs accurate situational awareness from all 22 of her components, but we hope that the Operations Coordination function does not become operational and duplicate the efforts of FEMA's National Response Coordination Center.

The House Appropriations Committee included language in the FY 2010 bill to prohibit funding for a position of Principal Federal Official in a Stafford Act disaster or emergency. We strongly support this language. The Federal Coordinating Officer should clearly be in charge. To have a Principal Federal Official leads to confusion in the chain of command.

FEMA needs to identify the work force required. The FEMA work force needs to be shaped to what Congress and people expect the Federal Government to do. We expect in a major catastrophic disaster that FEMA would have field trained experienced personnel to serve with us

in the states and counties. The question is – does FEMA have adequate staffing levels of skilled, seasoned emergency management personnel to meet this expectation? We recommend that this Committee request a study from FEMA to determine what its human capital resources should be based on our explicit expectation of its ability to manage a catastrophe and other events simultaneously. FEMA needs to be able to continue to respond to a flood in Ohio or a tornado in Alabama at the same time as the earthquake in California or on the New Madrid Fault.

We would also urge additional support for the Emergency Management Assistance Compact (EMAC). This compact allows assistance from one State to another even before a Stafford Act declaration can happen.

While catastrophes are difficult to define, we do believe that FEMA processes and policies should be reviewed by the new FEMA leadership to see what changes can be made to expedite assistance in both major disasters and catastrophes. After that review, there should be a discussion of what additional legislative authority may be needed.

If it is decided that additional legislative authority is needed for assistance in a catastrophic event, we would urge that those provisions be enacted within the Stafford Act and that it be all hazards. To develop another act dealing only with a catastrophic event would lead to more confusion. Care should be taken not to limit the flexibility of the Stafford Act.

Some legislative suggestions would be to have a provision for the President to change or waive the statutory 25% cost share for the FEMA individual assistance program for needs other than housing and the Hazard Mitigation Grant Program (HMGP). A state or states suffering from a catastrophic event would be highly unlikely to meet the 25% cost share at a time when individual assistance was desperately needed by its citizens. Also the cost share for HMGP would likely result in communities and states being unable to take advantage of a key opportunity to make their community more able to withstand a future event.

The Community Disaster Loan Program is the only FEMA program that can be used by a devastated community to meet its operating costs when the tax base has been severely affected. Under the current provisions, FEMA can loan up to 25% of the annual operating budget for the fiscal year the disaster occurred up to \$5 million. The process and amount of funding available should be reviewed so it can be a very effective part of a Federal Coordinating Officer's (FCO) tool kit to help a community survive.

The Project Worksheet system of the Public Assistance Program should be reviewed to determine how to expedite financial assistance in a catastrophic event. During a major event, having checkers check the checkers over and over again and then having a new official say it needs to be redone is very frustrating to our members. For a catastrophic event the current system is too cumbersome. Perhaps FEMA needs to take another look at estimating and providing a block grant.

In addition, attention should be given to what additional support and assistance should be given to host areas who receive evacuees in a catastrophic event. In fact, the Dallas County (Texas) emergency manager advised me just this past week that there is an on-going discussion in Texas

regarding host communities who have not received promised reimbursement for sheltering evacuees from Hurricanes Ike and Gustav. Given the tight financial situation in most cities and counties, capacity is being lost and it is difficult to commit to additional expenses without reliable assurance of financial reimbursement.

Our statement to you today would not be complete without a mention of the importance of personal preparedness. We whole heartedly endorse the stance taken by FEMA Administrator Craig Fugate that this is the single most important component in our nation "surviving" a catastrophe. People who are able must be prepared to help themselves and their neighbors in order that government at all levels (local, tribal, state and federal) can focus on those who can not help themselves and the big picture items (public safety, law & order, restoring infrastructure, etc). It is vitally important that programs supporting personal preparedness remain coordinated with and delivered through emergency management agencies at all levels of government.

Another segment of our communities requiring more preparedness emphasis is the small business sector. In many communities the small business sector employs the largest percentage of the resident population. These businesses (with 50 or fewer employees) often have a tough time making each payroll on a week by week basis and as consequence little or no emergency planning takes place. The truth be known, some relatively simple planning on their part would increase the likelihood of their returning to business quickly after a disaster. Unless the small business sector returns to business quickly after a disaster the ability of the local community to recover will be severely impacted. We seem to emphasize preparedness of the individuals, local, state and federal governments but somehow ignore businesses in general and small businesses specifically. IAEM-USA believes business emergency planning is a must to ensure our entire community responds to disasters in a coordinated and complete fashion.

We are discussing with our members other potential changes to processes, policies, emphasis, and statutes and will be happy to share that information with the Committee staff as you continue your review.

In conclusion, it is difficult to define what a catastrophe is. Therefore we would urge caution before engaging in statutory changes tied only to specific numerical triggers for catastrophes. If Congress determines that statutory changes are necessary, we would urge the changes be enacted within the Stafford Act and in consultation with key state, local, and tribal emergency management organizations. Any proposed mechanism to deal with catastrophes must include rapid mobilization of needed Federal assets in a way that respects the primary role of state, local and tribal governments. We would urge that the Federal government focus on how to jump start the recovery process, make it quicker, but still maintain integrity.

I appreciate the opportunity to testify on this important issue and will be pleased to answer any questions you may have.

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**United States House of Representatives  
Committee on Transportation and Infrastructure  
Subcommittee on Economic Development, Public Buildings and Emergency  
Management**

**Questions for the Record for Russell Decker, International Association of  
Emergency Managers**

**Question:** In your testimony you give a thorough discussion of the issues related to defining a catastrophe. In light of the issues you raise do you believe additional authority should be given to provide assistance after a catastrophic disaster? If so should this authority be given to the President in advance or delegated after each catastrophic event and targeted to that event?

**Answer:** IAEM-USA has no officially adopted position regarding additional authority for catastrophic disaster assistance. However, in my opinion I not aware of any *sweeping* changes in authority that the President would need to respond to a catastrophe. I do believe modifications to some of the existing programs would better serve the needs of communities suffering from the impact of a disaster, whether catastrophic or not. For example, additional funding for the Community Disaster Loan Program would assist communities in recovering. In addition, a simplification of the Project Worksheet system in the Public Assistance program could expedite financial assistance to communities. It is our understanding that FEMA currently has the authority to estimate damages to an impacted community and then provide block grant type payments on an expedited basis to kick start the recovery process for units of local government. We understand that a review of FEMA policies and procedures relating to disaster assistance is underway at this time, and may result in additional ways to expedite relief to communities impacted by disasters.

As an example of some statutory authorities that could be examined, the President might be authorized to adjust statutory cost shares in the FEMA individual assistance program for needs other than housing, and the Hazard Mitigation Grant Program (HMGP) if a catastrophic disaster trigger can be successfully determined.

IAEM-USA believes one of the hallmarks of the Stafford Act is that it is currently very flexible. We would ask that any changes being considered for the Stafford Act not limit that flexibility.

As I alluded to in my earlier testimony many of the complex issues surrounding the occurrence of a catastrophe are *qualitative* in nature. A trigger for catastrophic assistance that is based solely on numbers may not be able to recognize the qualities that make a situation a catastrophe. I continue to urge caution in making statutory changes which enhance the role of the federal government (including the military) at the expense of the authority and responsibility of state and local governments even in what some would describe as "catastrophic" events.

However, if Congress should determine that additional authorities are needed to trigger assistance after a catastrophe, we would urge that any such legislation be included in the Robert T. Stafford Disaster Relief Act as amended. The very act of deliberating whether disaster assistance should come from the Robert T. Stafford Disaster Relief Act, as amended, or a separate catastrophic relief act creates the potential to slow down vital disaster relief efforts.

**Question: What type of assistance should the Federal government provide communities who host evacuees after a catastrophic disaster? Do you think FEMA needs new authority to provide this assistance?**

**Answer:** IAEM-USA believes that FEMA should be allowed to directly compensate host states and local communities for their expenses in preparing to host evacuees in advance of a catastrophic disaster and actually hosting evacuees in the aftermath of a catastrophic disaster.

**Question: What are the responsibilities that have been given to the DHS Office of Operations Coordination that duplicate the responsibilities of FEMA? What are the risks of that duplication in disasters?**

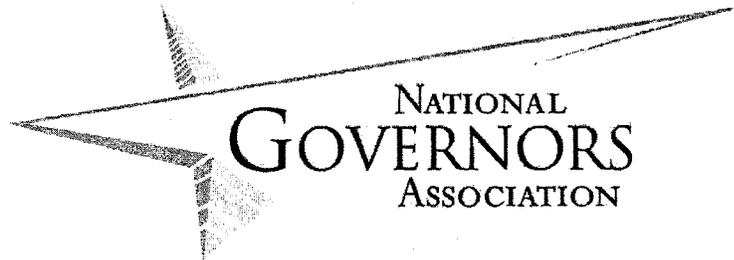
**Answer:** There are several areas of duplication between the DHS Office of Operations Coordination and FEMA which have the potential to increase opportunities for confusion when providing for the needs of local government affected by disasters.

First, we find a duplication of responsibility to gather disaster related information. Our members have reported answering additional queries for information after providing it through the accepted channels – i.e., from the local jurisdiction to the state agency, and from there to regional FEMA and national headquarters. These duplicate inquiries were found to be coming from the DHS Office of Operations Coordination, in an attempt to “verify” the information the very same unit of government had already submitted through regular channels.

In addition the national preparedness system including the national planning scenarios and the planning system (Integrated Planning System) appear to have been transferred in the last administration to the DHS Office of Operations Coordination from FEMA, in violation, we believe, of the provisions of the Post Katrina Emergency Management Reform Act (PKEMRA).

Another area that IAEM-USA has noted as a systemic problem as a result of the transfer of responsibilities to the DHS Office of Operations Coordination from FEMA is in the area of incident management. The DHS Office of Operations Coordination has attempted to create a differentiation between “incident management” and “emergency management” that could have a devastating negative impact on the coordination necessary for a successful response to a disaster. The source of this potential system failure is a belief apparently endorsed by the DHS Office of Operations Coordination that “incident management” is the over-arching discipline necessary to coordinate a disaster response.

IAEM-USA remains committed that emergency management is the broader, overarching and more systematic approach to the issue of dealing with all disasters and emergencies, whether natural, technological, or homeland security. Incident management, while important, is a much more narrowly focused sub-element of response – one of the four phases of emergency management (mitigation, preparedness, response and recovery). To insist otherwise is to ignore the evidence of reality – and, a tacit acknowledgement on the part of the DHS Office of Operations Coordination that they fail to understand the broader implications of the overall emergency management system.



Statement of Brigadier General Donald P. Dunbar  
Adjutant General, State of Wisconsin  
On behalf of the National Governors Association

Before the  
Subcommittee on Economic Development, Public Buildings and  
Emergency Management  
U.S. House of Representatives, Committee on Transportation and  
Infrastructure

“Post-Katrina: What it Takes to Cut the Bureaucracy and Assure a  
More Rapid Response After a Catastrophic Disaster”  
July 27, 2009

National Governors Association  
444 North Capitol Street, NW  
Washington, DC 20001  
(202)624-5300

Chairwoman Norton, Ranking Member Diaz-Balart, and distinguished members of the Subcommittee, thank you for the opportunity to testify before you today on the important issue of catastrophic planning and disaster preparedness.

As Adjutant General for the State of Wisconsin, I serve as Commanding General of the Wisconsin Army and Air National Guard with responsibility for both federal and state missions. I also serve as the Homeland Security Advisor to Governor Jim Doyle and have responsibility for emergency management.

I appear before you today in uniform and I am a federally recognized officer; however, I appear before you today as a State Official, not on federal military orders and am representing the State of Wisconsin and the National Governors Association.

My testimony will focus on three areas critical to enhancing the nation's preparedness for a catastrophic incident: 1) the federal-state partnership and the need to clarify the role of the military; 2) the role of federal preparedness guidelines; and 3) the need to better target grant investments toward achieving and sustaining capabilities.

**Federal-State Partnership**

A catastrophic disaster is any natural or man-made incident that results in extraordinary levels of damage or disruption, including mass casualties, damage or destruction to critical infrastructure, the loss of communications, and severe disruption to government operations and the affected population. A catastrophic event may quickly overwhelm local and state capabilities to respond, requiring unprecedented levels of mutual aid and federal assistance.

The Stafford Act, the National Incident Management System (NIMS), and the National Response Framework (NRF) recognize the primacy of the states in managing the response to an emergency. A key tenant of the NRF is tiered response. Incidents must be managed at the lowest possible jurisdictional level and supported by additional capabilities when needed.

States regularly assist other states in emergency response through the deployment of personnel, goods, equipment and other resources through the Emergency Management Assistance Compact (EMAC). Any resources deployed through EMAC are quickly integrated into ongoing response operations through the use of a common incident management structure as laid out in NIMS. This common architecture facilitates the integration of law enforcement, firefighters, emergency medical service providers, and logistics personnel from other states into the incident command structure established by local or state officials in the affected area.

During a catastrophic disaster, it is likely that the resources of the Department of Defense (DoD) may be called upon to assist in response efforts. It is critical that all federal military personnel be integrated into the state's response operations and the established

incident command structure. In order to do so, all military personnel must be under the tactical control of the affected state's governor.

DoD recently requested that Congress grant the authority to DoD to call-up the Federal Reserve forces (Army Reserve, Navy Reserve, Air Force Reserve, Navy Reserve, and Marine Corps Reserve) to assist in disaster response. While this request appears to support the ability of federal military forces to assist in response efforts, it would have the effect of establishing dual chains of command and potentially creating confusion over roles and responsibilities.

Currently, all National Guard forces assisting in a response effort, including those of neighboring states, are under the control of the governor. If the governor requires additional assistance, he or she may request DoD personnel and/or equipment through FEMA. This construct maintains the role of FEMA as the primary agency responsible for managing the federal role in disaster response, while also preserving the constitutional command and control authority of the governor. In contrast, DoD's proposal would allow DoD to decide when to deploy federal military forces to provide assistance and would do so under a separate chain of command that would not report directly to the governor. This proposal would invite confusion on critical command and control issues, establish stove-piped response operations, and interfere with governors' constitutional responsibilities to ensure the safety and security of their citizens.

Governors and their Adjutants General and Homeland Security Advisors are deeply concerned by this effort and encourage both DoD and the Department of Homeland Security (DHS) to instead engage with them to establish a common understanding on command and control authorities during disaster response. Attached to my written submission is the National Governors Association's policy on the National Guard that articulates this concern.

#### **Federal Preparedness Guidelines**

Since the terrorist attacks of September 11, 2001 and Hurricanes Katrina and Rita in 2005, there has been great progress in enhancing collaboration and planning between and among agencies at the federal, state and local levels. This partnership must continue to evolve and develop if we are to better respond to the next catastrophic incident. For instance, we must improve our common understanding of response capability expectations at the federal, state and local levels. This will expedite the delivery of disaster assistance while improving the overall efficiency of response efforts. We must also improve the planning process, in which the federal government has a strong role to play in helping ensure a degree of consistency.

The federal government has developed a series of guidelines, tools, and requirements in an effort to help states and localities plan and prepare for catastrophic incidents. FEMA, in response to congressional direction in the Post-Katrina Emergency Management Reform Act (PKEMRA) to develop risk-based capabilities, developed the Target Capabilities List (TCL). The TCL outlines 37 capabilities that all levels of government

should develop in order to prevent, prepare for, respond to, and recover from disasters. While this list is not exclusive, it represents the capabilities judged by FEMA to have the highest payoff in terms of national readiness and were developed in consideration of the 15 National Planning Scenarios. These scenarios include potential terrorist attacks and natural disasters. In addition, to help states develop emergency response plans for these scenarios, FEMA is developing the Comprehensive Preparedness Guide 101 (CPG 101).

National guidelines for the planning process are essential to provide a baseline for state and local efforts and reduce redundancy and confusion in interstate and federal response activities. The plans developed through CPG 101, however, must also be integrated with those developed by the federal government through the Integrated Planning System (IPS). Currently, these two initiatives are moving forward in parallel without consideration for how the response capabilities will be integrated vertically during a large-scale event.

Additionally, the TCL's could be enhanced to better reflect desired outcomes and then identify thresholds for capacity, including the second and third order effects of the deployment of response assets. DHS has recognized this need and has begun a process to refine the TCL and has reached out to local and state stakeholders for participation.

#### **Grant Investments and Capability Development**

Since the terrorist attacks of September 11, 2001, the federal government has provided billions of dollars to help build state and local capabilities to respond to terrorist attacks, natural disasters, or other man-made events. These grant funds have been tremendously helpful in supplementing the ongoing efforts of states to protect the safety and security of their citizens. The current fiscal crisis is greatly affecting state budgets and the ability to meet critical needs. While states are trying to protect homeland security and public safety budgets as best they can, many may still be forced to furlough or layoff staff and some are finding they are unable to meet the state match requirements on grant programs.

The current fiscal situation makes it increasingly imperative that all levels of government work together to improve preparedness for a catastrophic event. One means to do so is by ensuring that DHS grant program requirements and guidelines are better linked to national homeland security policies and the requirements placed upon states. National policy should inform grant investments, which should be aimed at developing, improving, measuring and sustaining capabilities. The nation has invested significantly in homeland security; however the goals and objectives for homeland security investments have often changed before capabilities were sufficiently developed. The grant programs should allow sufficient flexibility for recipients to build and sustain capabilities deemed critical to their homeland security needs, while continuing to contribute to national capability development.

In addition, DHS should identify metrics against which grant recipients can measure their capability levels. FEMA is currently developing the Cost-to-Capability (C2C) initiative to help measure the impact of grants on state and local capabilities. This program is being tested through pilot programs with several states this summer to determine its

effectiveness. The results of the pilot programs, including feedback from the participating states, should be carefully reviewed and shared with state and local recipients prior to its further development and eventual deployment for use across the country. The ability to measure the impact of grants on the achievement of desired outcomes will better inform the allocation of scarce resources.

**Conclusion**

As you know, the response to a catastrophic event will require a great deal of coordination among all levels of government and across all disciplines. I have outlined three areas in which greater coordination could improve the effectiveness and efficiency of any response effort; however, there are many other areas which could be discussed. For instance, how exercises may assist in preparing for catastrophic disasters and the additional challenges that may be posed by a widespread public health emergency. I look forward to discussing these issues in greater depth and am happy to respond to any questions you may have.



### **HHS-3. ARMY AND AIR NATIONAL GUARD**

#### **3.1 Preamble**

The relationship between the federal government and the states regarding defense of the homeland continues to evolve. Since September 11, 2001, our national leaders have had a paradigm shift in their thinking on national defense. The National Guard of the United States is no longer considered a strategic reserve. It is now recognized as a ready operational force that not only supports Combatant Commanders around the world, but also defends the homeland every day.

Today's active forces, constrained in size and scope by the enormous cost of personnel and material, must rely on the National Guard as a ready and well-trained "operational reserve" combat force. Realizing that approximately one-half of the defense budget is attributed to personnel cost, the Guard, which receives only a fraction of a month's pay when not activated, represents a cost-effective way to protect our national security and provide for a professionally trained and committed Army and Air Force for the national defense.

Governors wish to emphasize that they command the National Guard of their respective states and territories, and that the Guard is the only military force that the governor can call upon to respond to disasters and other emergencies. Thus, governors have an enormous stake in the ongoing effectiveness and efficiency of their National Guard.

Governors note that national defense strategy requires the Army and Air National Guard to be capable of fighting with the active forces. In keeping with the "Total Force Policy," many active units cannot enter into combat as effective units unless accompanied by mobilized elements of the National Guard. The National Guard must be properly equipped, efficiently trained, and fully staffed to meet these responsibilities. As ably demonstrated in Operation Enduring Freedom and Operation Iraqi Freedom, natural disaster response, and national special security events, the National Guard has fulfilled its combat and domestic support roles in a superb manner.

#### **3.2 Control of the Guard**

##### **3.2.1 Gubernatorial Authorities.** Governors wish to emphasize that, unless and until activated for federal service, the National Guard is under the control of the governors as commanders-in-chief. We call attention to the U.S. Constitution, Article I, Section 8, clause 16, which enables Congress:

to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress . . . .

Title 32 of the United States Code (USC) affirms governors' command and control over the National Guard in peacetime, including use of the National Guard for domestic operations, without any restraints such as those pertaining to the Posse Comitatus Act. Title 10 of the USC is focused primarily on the use of active duty military forces to deal with war and other national defense crises. The Guard can be activated under Title 10 as a part of the forces under the command of the President of the United States. Governors believe that when National Guard members perform domestic missions they should do so in State Active Duty or Title 32 status rather than Title 10 status, unless and until the President has activated their unit under Title 10 for a federal mission requiring federal military forces, such as to repel an invasion.

In order to carry out their homeland defense and homeland security responsibilities, governors must retain command and control over the domestic use of their own National Guard forces and supporting National Guard forces from other states operating within the supported governor's state or territory. For the same reasons, when a Dual Status Command has not been established under 32 USC 325, governors, acting through their Adjutants General and Joint Force Headquarters-State, must have tactical control over all Title 10 active duty and reserve military forces engaged in domestic operations within the governor's state or territory. Exceptions to this are : (1) if the application of lethal military force is

required to repel an invasion or attack against the United States; and/or (2) if National Guard forces in state active duty or Title 32 status are being used to resist a lawful order of the executive or judicial branch of the federal government. In these two instances, a governor's tactical control of Title 10 military forces would be inappropriate and federal activation of the governor's National Guard forces under Title 10 USC for domestic operations should be authorized. Unless or until governors are given tactical control over Title 10 active duty and reserve military forces engaged in domestic operations within their state or territory, governors support the congressional rejection of provisions to change the Insurrection Act to allow the President to call-up and domestically deploy federal reservists during the response to a domestic event.

- 3.2.2 Dual Status Command.** As an alternative to granting a governor tactical control over Title 10 domestic military operations in the governor's state or territory, governors recognize that a Dual-Status National Guard commander can be appointed by the respective governor and the President pursuant to 32 USC Section 325. Pursuant to such appointment, the Dual Status National Guard commander would have command and control of all active, Guard, and reserve military personnel deployed to or within the state in support of or in response to the domestic event or emergency. Both federal reserve forces called to duty for an emergency, and follow-on, later arriving active duty forces should fall under the command and control of the dual-hatted commander.

Governors understand that, if an emergency rises to a level of significance such that federal law or the Constitution permits the President or Congress to declare the event under federal control, the National Guard can be activated under Title 10 and would then serve directly under the President's command and control for the domestic event or emergency.

- 3.3 Role of the National Guard in Domestic Disasters and Terrorism Response**

Historically, the National Guard has served as a critical resource in emergencies and can be an effective force multiplier to civil authorities in responding to acts of terrorism at the state, local, and federal levels. In the wake of the September 11, 2001, terrorist attacks, the National Guard has expanded its traditional role in homeland defense and homeland security and readily supports local, territorial, state, and federal response agencies with needed equipment, facilities, and personnel. National Guard activities such as conducting vulnerability assessments; planning, training, and exercising with civilian emergency responders; and securing strategic facilities, such as airports, pharmaceutical labs, nuclear power plants, communications towers, and border crossings, have been a cornerstone in protecting our citizens from domestic acts of terrorism. The U.S. Department of Defense (DoD) should reaffirm these activities as an integral part of the ongoing mission of the National Guard and ensure the Guard is provided the funding, training, equipment, and other resources necessary to fully meet the additional responsibilities inherent in today's homeland defense environment.

An emerging need is to construct or alter facilities to sustain and promote unit and individual readiness, support evolving and increased logistic needs, and provide military support to civil authorities during domestic emergencies. In addition to the other capital needs, DoD should increase funding for National Guard facilities to reduce the backlog of military construction projects.

- 3.3.1 Mutual Aid.** The National Guard has established Joint Force Headquarters in each state to coordinate and integrate National Guard support to state and local civilian authorities, and receive and integrate the Guard forces dispatched by other governors under the Emergency Management Assistance Compact (EMAC) or other mutual aid agreements. These joint force headquarters are a top priority and deserve full funding. DoD and the services must provide force structure, equipment, financial support and authority to properly staff these joint billets and functions.

Every state National Guard also has developed rapid reaction forces that provide every state with a trained and ready combat arms force capable of quickly delivering company- and battalion-sized units. These reaction forces can help local and state law enforcement agencies by protecting key sites such as power plants and transportation hubs, establishing roadblocks, and securing Weapons of Mass Destruction incident sites.

The use of mutual assistance compacts and an increasingly strong nationwide resource-sharing alliance provides a robust, redundant, and resilient capability for the Guard to support any state in a Title 32 status. This capability falls within the Stafford Act and Chapter 15 of Title 10, which address the enforcement of laws to restore public order.

**3.3.2 Readiness.** Any assignment of responsibility for enhancing the nation's terrorism consequence management capability should be balanced against the contingency of the National Guard being called to assist active and reserve components in dealing with overseas military operations. While the Army and Air National Guard have aggressively supported the nation's homeland security needs, the Guard's preparedness to perform future or expanded homeland security missions must take into account requirements, readiness standards, facility readiness and other measures that have not yet been defined. We urge the Secretary of Defense to work with the nation's governors in refining the central role of the Guard in future homeland defense and other domestic missions.

**3.3.3 Council of Governors and Policy Development.** Governors strongly support the establishment of the bipartisan Council of Governors (Governors Council) required by Section 1822 of the National Guard Empowerment Act of 2007. The Governors Council will serve to improve coordination between the federal government and states on matters related to the National Guard and military support to civilian authorities, and will be an important tool to address issues such as National Guard equipment, capital facilities, training and readiness; deployment schedules; and coordination between federal and state agencies.

National policy development pertaining to the role of the National Guard should be coordinated through the Governors Council and focus on the following principles:

- All disasters are local. Our constitutional design, a federal republic, provides the legal guidance to respond to domestic disasters and terrorism response at the state level.
- Emergency response resources and personnel are local. Nearly 100 percent of our emergency response equipment and personnel serve at the municipal, county, and state government levels.
- Government jurisdiction and authority is local. Since response is local, authority must remain local. A municipal government may be rendered completely ineffective by a disaster, but it is increasingly unlikely that a county or state government would become non-functional.
- In domestic operations, civilian authorities are in charge. Most states have constitutional provisions placing military under civil authority. The President is authorized to use the militia and armed forces to enforce federal authority in extreme cases; however, in the case of Martial Law, it is a state responsibility.
- The National Guard is a state force. Starting with the Dick Act of 1903 and followed by the Defense Act of 1916, the National Guard has become integrated into the wider national Army and Air Force. This provides standardization, uniformity, and funding, but not control. It allows the National Guard to become fully integrated into state and local response plans and eliminates restrictions intended to check federal power, including the Posse Comitatus Act.
- The National Guard, with more than 3,000 community-based facilities, provides an ideal local base of support for military and civil authorities and for supporting citizens in need during domestic emergencies.

#### **3.4 Equipment and Training**

Governors commend the Army and the Air Force for the efforts being made to enhance training and to better equip the National Guard in recognition of its vital contribution to our national defense. However, the Army National Guard is still seriously underequipped. Many states and territories are experiencing equipment shortages in critical areas such as motorized vehicles, radios and other communications equipment, Army and Air National Guard tactical fixed wing airlift, and Army National Guard utility helicopters. Additionally, governors remain concerned regarding DoD's plans to meet National Guard requirements for a fixed wing aircraft for domestic and overseas tactical airlift operations. The ability of the National Guard to fulfill both domestic and overseas tactical airlift missions is dependent upon adequate numbers of tactical fixed wing cargo aircraft in the National Guard, as well as their strategic positioning at Guard bases throughout the country.

Such equipment shortages heavily impact our readiness for domestic emergencies. Current aviation modernization plans fail to adequately address these shortages, and we urge Congress and the Administration to ensure an increased supply of helicopters for the Army National Guard, and an increased supply of theater fixed wing aircraft for both the Army and Air National Guard. Modernization plans must provide adequate sets of equipment to facilitate prompt and effective Guard response to domestic emergencies.

It is especially critical that Army National Guard units returning from active duty abroad be re-equipped and reconstituted to ensure that they are ready for redeployment or domestic missions.

Governors commend the President and Congress for their strong efforts to fill the National Guard's "Essential Ten Equipment Requirements." These items, identified by the National Guard Bureau as the most critical dual-use items, are needed for each state to maintain some measure of the ten vital capabilities it needs in an emergency, namely, a joint force headquarters with around the clock staffing for command and control; a civil support team for chemical, biological, and radiological detection; engineer assets; logistics; communications; ground transportation; aviation; medical surge capability; security forces; and a baseline maintenance capability. Further, the services must, as possible, simultaneously field the same equipment to Title 10 and National Guard forces to ensure seamless integration of the Guard as it engages in its federal mission.

Governors support continued progress towards budgetary and equipment transparency to ensure Army National Guard units receive equipment for which Congress provides funds.

The shortage of Full-Time Support (FTS) personnel remains a priority for the Army National Guard across the country. Governors commend the President and Congress for the significant increase in Full-Time Support (FTS) personnel. Governors encourage DoD and Congress to include increases to future year Defense authorization and appropriations bills as past gains in congressionally authorized FTS levels are not sufficient to sustain the National Guard or meet federal readiness requirements. The focus of all full-time staff adds should be at the state level and below for the next four years.

A top readiness issue for the Army National Guard is Military Construction. Many of the nation's armories are in need of significant renovation and/or replacement. Our nation has never relied more on its National Guard for homeland defense than it does today and our soldiers deserve modern, efficient facilities in which to train. In addition, these armories are vital centers of gravity for the communities in which they are located, often serving as emergency shelters and field operations centers in time of need.

Governors support annual training exercises of National Guard units. However, the requirements for training and military education should be consistent with the needs of a dual role military force, and with the responsibilities members of the Guard also have to their families, their employers, and their communities. This should be kept in mind when developing the right mix of monthly and annual training exercises for the Guard. Governors recognize that special training may be required of certain units, but this must be the exception and not the rule, and should be undertaken to the maximum extent possible on a voluntary basis.

**3.4.1 State Partnership Program.** Governors recognize the exceptional role that their Guard has in promoting America's interests overseas as reflected by the great successes of the State Partnership Program. DoD should increase the prominence and utilization of this program and expand funding to include military to civilian and civilian to civilian events within the combat commander's theater security cooperation plan.

**3.4.2 Employer Support for the Guard and Reserves.** Governors ask the employers of National Guard men and women to recognize their need to be away during times of training or when activated by the governor or federal authorities. Additionally, governors ask employers to remember the extra sacrifice made by military families before, during and after deployments to provide them the needed support and time to sustain military families.

In addition, governors applaud and encourage commitments by private employers to make up gaps between civilian pay and active-duty pay for Guardsmen and reservists. A number of states are seeking to address this for their employees who are citizen-soldiers and airmen. Governors strongly encourage Congress to join in this effort to enhance federal measures to address pay gaps for activated citizen-soldiers and airmen who leave their jobs to stand in harm's way for our nation and to provide employer benefits to employ National Guard and reserve members.

**3.4.3 Yellow Ribbon Reintegration of Military Service Members and Families.** The states have undertaken dynamic initiatives in creating programs to support military Service Members and their Families during the deployment cycle. Governors also applaud the efforts by Congress and the DoD to provide legislation and funding to implement programs that assist in this process. Governors urge the Administration and Congress to further develop mature Yellow Ribbon Reintegration programs that rely on decentralized delivery and local partnerships to link veterans with local services and capabilities.

Therefore, it is prudent and right to build the relationships with the local providers and agencies as soon as possible. Initiatives such as the Community Based Health Care Offices of the VA and similar efforts by the DoD assist greatly with the successful reintegration of veterans to their local community.

Finally, federal departments must share privacy data more effectively with each other and with states to ensure seamless support of service members and veterans while protecting the privacy and security of their personal information.

### 3.5 **The National Guard and the Transformation of the U.S. Military**

The National Guard has not been immune from post-Cold War force reductions. In fact the National Guard today is at the same force structure level as prior to World War II. The events of September 11, 2001, have caused a broad reevaluation of the entire spectrum of terrorism response and homeland security, including the role of the National Guard. In light of the new threat environment, the current force structure of the Army and Air National Guard must not be reduced; in fact, governors believe consideration should be given to expanding the force structure of the Army and Air National Guard. Furthermore, the Air Force should extend the community-basing effort where active duty airmen are assigned to Air National Guard bases saving the Air Force significant funds and increasing the readiness of both the active duty Air Force and the Air National Guard.

Changes in the national security environment have caused the U.S. Department of Defense to evaluate force structure. Additionally, the sweeping recommendations of the Commission on the National Guard and Reserve (CNGR) prompted an aggressive response from the Secretary of Defense. Governors applaud the Secretary's active approach to addressing these important issues and call on the Secretary for decisive action which preserves the primacy of the states in responding to domestic emergencies and the operational nature of the National Guard. Truly, the National Guard has shown its vitality and validity as a cost effective and mission proven force. DoD plans to address the CNGR recommendations should reflect this fact. Governors look forward to working with the Secretary on these issues through the Governors Council.

The Army and Air National Guard have surpassed their recent recruitment and retention goals. For the Army National Guard in particular, innovative recruiting incentives, such as the Guard Recruiting Assistance Program (GRAP) and the Active First Program have proven invaluable in the contemporary recruiting environment. The nation's governors commend the National Guard Bureau for its efforts to focus command attention on recruitment and for allocating more resources and funding, including more recruiters to assist in the effort.

The nation's governors commend Congress and the Administration for providing coverage under the TriCare standard program to all members of the National Guard regardless of their status.

The Army and Air Force are encouraged to commit to the full preparation of and maximum practical utilization of the National Guard as a dual-missioned force for both domestic and outside the continental United States (OCONUS) peacetime and wartime missions. The Guard's effectiveness in responding to state and federal domestic emergencies is a direct result of its combat, combat support, and combat service support missioning, training, equipping, and deployment experience. The National Guard's strengths are the quality and combined military and civilian training of its people, its unique state and federal ties, its unique dual mission, and its cost-effective manner of maintaining high combat readiness. It is the national insurance policy for domestic and foreign emergencies.

The Army and Air Force also should acknowledge that moving National Guard units to active duty bases can have a significant negative impact on the Guard's recruitment efforts. In particular, moving Air National Guard units from civilian airports to active duty bases does not make sense from a cost savings standpoint since Air Guard units typically operate very inexpensively and provide needed services to civilian airports. Governors urge DoD to avoid closing National Guard facilities and air bases. The current dispersal of National Guard facilities and air bases enhances homeland security capabilities by reducing the ability of terrorists to destroy a significant percentage of homeland defense capability by attacking consolidated operations sites. Additionally, these bases provide governors with multiple locations near population centers that are used for the receipt, staging, and onward integration of people, equipment, and medical supplies during emergencies.

### 3.6 **Equal Opportunity in the National Guard**

The National Guard is composed of men and women of all races, colors, creeds, and religions from more than 3,000 communities in the states, territories, and the District of Columbia. The National Guard Bureau has established equal opportunity in the Guard as one of its primary goals, and states are committed to fair and equal access to all positions in the National Guard.

Governors, as commanders-in-chief of the National Guard, fully support equal opportunity in all state programs and institutions under the Guard regardless of race, sex, or religion; endorse the National Guard Bureau's goal; and pledge full support in achieving equal opportunity in all aspects of the Guard.

*Time limited (effective Winter Meeting 2009–Winter Meeting 2011).*

*Adopted Annual Meeting 1986; revised Annual Meeting 1990, Winter Meeting 1991, Annual Meeting 1992, Winter Meeting 1994, and Winter Meeting 1995; revised and reaffirmed Winter Meeting 1997; reaffirmed Winter Meeting 1999; revised Winter Meeting 2001, Winter Meeting 2003, Annual Meeting 2003, Winter Meeting 2005, and Winter Meeting 2007; reaffirmed Winter Meeting 2009; revised Annual Meeting 2009 (formerly Policy HR-6 and Policy B-5).*

**Written Statement of**

**Craig Fugate**

**Administrator  
Federal Emergency Management Agency  
Department of Homeland Security**



**FEMA**

**"Post-Katrina: What it Takes to Cut the Bureaucracy and  
Assure a More Rapid Response After a Catastrophic  
Disaster"**

**Before the**

**House Committee on Transportation and Infrastructure,  
Subcommittee of Economic Development, Public  
Buildings and Emergency Management  
U.S. House of Representatives  
Washington, DC**

**July 27, 2009**

Good morning Chairwoman Norton, Ranking Member Diaz-Balart, and other distinguished Members of the committee. It is my privilege to appear before you today on behalf of the Department of Homeland Security and the Federal Emergency Management Agency (FEMA). As always, we appreciate your interest in, and continued support of our emergency management mission.

The subject of today's hearing - catastrophic disasters - is one that has my complete attention. As a former state emergency management director who has dealt with a number of major disaster events, including four back-to-back hurricanes in a single year, I am well aware of the immense response and recovery challenges likely to face those affected by an incident of catastrophic magnitude, and recognize that such an event will require immediate, massive, and sustained support from not only the federal government, but our many partners across the emergency management community. However, while the enormous scale and complexity of a catastrophic disaster environment will require an equally enormous level of support, our number one priority - saving and sustaining lives - remains constant no matter the scale of the crisis.

But, first things first. Before we can engage in a productive dialogue on the role of the federal government in a catastrophic incident environment, we first must agree on what a catastrophic disaster is.

Our nation's guide to disaster response is the National Response Framework, which establishes principles and a scalable architecture for responding to incidents of any size or magnitude, including catastrophes, which the Framework defines as "any natural

or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions.” In starker terms, a catastrophe is an event of such magnitude that it overwhelms local incident command and resource capabilities across the state, and does so to such an extent that the health, safety, and security of thousands of citizens may be at risk without swift and aggressive intervention and assistance from the federal government and our national partners. Further, a catastrophe is likely to result in such widespread devastation that communities will face immediate or near-term insolvency, and will be incapable of reconstitution without significant financial and materiel assistance from the federal government. The economic and social reverberations of such an event have the potential to be far-reaching.

You may notice that I am describing a catastrophe within the context of its effects on the homes, infrastructure, and local economy of the region it impacts. We seem to most often talk about disaster assistance from a federal-state perspective, but it is within *communities* that people actually live and work; within *communities* that businesses and industries actually operate; and within *communities* that local governments and government institutions reside. While the impact of catastrophes will certainly be felt at the federal and state level, the impacts have the potential to be most devastating at the community level. Therefore, our catastrophic response strategy must be designed to quickly stabilize communities, and calibrated to support their timely recovery and return to municipal self-sufficiency.

A key component of the National Response Framework is the Catastrophic Incident Annex, which states, “Where State, tribal, or local governments are unable to

establish or maintain an effective incident command structure due to catastrophic conditions, the Federal Government, at the direction of the Secretary of Homeland Security, may establish a unified command structure, led by the Unified Coordination Group, to save lives, protect property, maintain operation of critical infrastructure/key resources, contain the event, and protect national security. The Federal Government shall transition to its role of coordinating and supporting the State, tribal, or local government when they are capable of reestablishing their incident command." This is an important and critical element of our catastrophic response strategy, and fully aligned with FEMA's philosophy for providing disaster assistance: Designed to Support, But Prepared to Lead.

Key to our ability to effectively and seamlessly make the shift from traditional support to States to incident command is planning and exercising. All of us in the national response partnership must clearly understand our respective contingency roles and responsibilities within a catastrophic disaster environment, and we must all be prepared to step into and execute those roles and responsibilities immediately, with little to no notice. How well we execute our assigned roles and responsibilities following an event with catastrophic potential, whether man made or natural disaster, the first 72-hour period following the onset will largely define how successful we are in terms of our most important measure: lives saved.

#### **Planning for Catastrophic Disasters**

The magnitude and scope of a catastrophic event makes the already difficult task of disaster planning even more challenging. Traditional disaster planning is based on the theory of sequential failure. When a city or county's resources are overwhelmed, it turns

to the state government for assistance. If the state is overwhelmed, it in turn seeks aid from other states and/or the federal government. When directed to provide such support by the President, FEMA will coordinate with its federal partners to provide assistance to, and through, the State, within the existing incident command framework.

A catastrophic event may overwhelm not only local response capabilities, but overwhelm the state emergency management infrastructure as well. A catastrophic event may become a multiregional or international event requiring a regionally consistent response. In such cases, the federal government must be prepared to step in and assume a greater and more direct role during the initial disaster mitigation and disaster response period. To help define the federal government's roles and responsibilities in these situations, FEMA initiated a Catastrophic Disaster Planning Initiative designed to plan and prepare for an appropriate, timely, and efficient response to a truly catastrophic disaster—and to test and practice such plans with our state and federal partners.

To give just a few examples of locations where such planning is underway:

In Florida, emergency plans have been developed for all inland counties that surround Lake Okeechobee, and catastrophic plan annexes and standard operating procedures are being developed for Miami-Dade, Broward and Palm Beach counties. Going forward, the intent is to integrate these new policies into comprehensive emergency management plans, and to apply any lessons from this effort to our current and future catastrophic planning initiatives.

Last year, an earthquake response plan was completed for Northern California and the San Francisco Bay Area. This plan was tested during the recent "Golden Guardian" exercises, and a similar plan is now being developed for Southern California. This plan

addresses the unique challenges that would be associated with responding to a massive, catastrophic earthquake on the west coast.

In Hawaii, a catastrophic response plan was developed and tested during a 2009 exercise. A major focus of this planning effort involved the challenge of providing rapid large-scale disaster relief to the geographically isolated state. FEMA's catastrophic planning efforts are now beginning to focus on similar challenges in Guam.

Another major planning effort underway focuses on the New Madrid Seismic Zone in the Midwest States. This planning initiative will address a catastrophic earthquake impacting eight Midwest States, and will be tested during the 2011 National-Level Exercise. It is our intention that this New Madrid plan will provide the basis for a fundamental re-tooling of the all-hazards Catastrophic Incident Annex and associated supplement to the National Response Framework.

In addition to our planning and grant funding efforts, FEMA regularly participates with states in National Level Exercises to ensure that all governments are coordinating and ready to respond to any type of disaster, including a catastrophic event. The upcoming national exercise in 2010, for instance, will have a particular emphasis on Clark County, Nevada, where the scenario focuses on the detonation of an improvised nuclear device.

These national exercises reflect the reality that neighboring states are often in a better position than the federal government to provide immediate assistance to a devastated community. That is why FEMA has placed a greater emphasis on Pre-Scripted Mission Assignments for adjoining states and the execution of contracts that can help us strengthen our partnerships and ensure a rapid response to any disaster. We are

also working with the National Emergency Management Association to encourage collaborative partnerships between states, and will continue to work to provide clear and simple guidance regarding reimbursement to States under the Emergency Management Assistance Compact, as well as interstate mutual aid agreements.

In addition to these initiatives, FEMA is using our Regional Catastrophic Preparedness Grant Program to support the coordination of regional, all-hazard planning for catastrophic events, and the planning for pre-positioned commodities and equipment. The benefits of this program are visible throughout the country. For example, New York City has used Regional Catastrophic Preparedness Grant Program funding to partner with communities in Northern New Jersey to develop specific, regional catastrophic plans for evacuation and sheltering, responses to terrorists' use of explosives, regional infrastructure protection, mass fatalities, and debris management. They have also used the funds to develop a comprehensive, regional disaster-housing plan. In many cases, the assets best positioned to respond in a catastrophic event will be those located nearest to the impacted communities, making this regional level planning invaluable.

#### **New Realities Call For New Solutions**

Business as usual will not work in a catastrophic disaster. In a catastrophe, we will be faced with situations and needs for which our traditional response and recovery architecture is insufficient. Rather than defining our response based on current capabilities, we must work with our partners across federal, state and local governments – and importantly, in the private and volunteer sectors – to identify new approaches to deal with novel events such as anthrax or other biological attacks, massive destruction

or contamination across a wide geographic area. The focus will be on attending to the hundreds of thousands, if not millions, of people needing immediate medical care, diagnosis and treatment. However, one other area that will demand a new approach is disaster shelter planning.

While FEMA is certainly prepared to provide a large number of temporary housing resources following a disaster, the sheer size, scope, nature and duration of the sheltering needs after a catastrophic event require us to look at alternatives, and will require the coordinated involvement of federal agencies, state, local and tribal governments, the private sector, and voluntary and faith-based groups. As I noted in recent testimony before another House committee, disaster housing, particularly following a catastrophic event, is not a mission that FEMA can or will ever be able to effectively handle alone. However, it is a mission to which FEMA is committed to providing national leadership.

The emergency management community has developed several very real, potential catastrophic scenarios, and the number of potential disaster survivors that may need sheltering and housing is enormous. For example, planning experts anticipate that following a New Madrid Seismic Zone no-notice earthquake, a projected 2.6 million people will require shelter. It is also estimated that following a Category 5 Hurricane in the most populous areas of Florida, as many as 3.6 million households will seek either short- or long-term shelter. After a catastrophic hurricane affecting Honolulu and the island of Oahu, it is projected that 650,000 residents would be in need of shelter.

These numbers can increase significantly due to the unknowns - significant aftershocks, ensuing fires, safety and security concerns, additional significant weather

conditions that could affect population movements, and temporary sheltering requirements dependent on seasonal weather conditions. The bottom line is that neither the federal government nor the manufactured housing industry has the capacity to address all the anticipated housing needs in a timely manner in these types of situations. Because of this, we will need to rely on other, more innovative housing options.

Although our first priority is always to shelter and house survivors in or near their communities, that will simply not be possible in a truly catastrophic event or an event involving contamination. While we continue to aggressively explore options to quickly provide or restore housing in affected areas, the capability will simply never exist to locally shelter and temporarily house half a million or more survivors. Instead, we all need to recognize the need for a timely, organized, and disciplined relocation of survivors to venues where such shelter and follow-on temporary housing exists. The reality is that, if a region is sufficiently devastated by a catastrophic disaster, it may be many months or years before recovery has progressed to the point many disaster survivors will be able to return to their homes and communities. Accordingly, we must temporarily place survivors in environments conducive to personal stabilization and recovery *where they are*, as their communities are rebuilt. Other options that must be considered include rehabilitating rental units that can be repaired quickly, similar to the efforts undertaken by FEMA in Iowa and Texas under a recent pilot program authorized by the Post Katrina Emergency Management Reform Act's Rental Repair Pilot Program. This legislation also gave FEMA additional authorities to undertake semi-permanent and permanent construction work to make repairs.

We must also look at ways to speed up the infusion of eligible public assistance funding to communities, which can be financially devastated and thus unable to commence critical infrastructure repair projects without up-front funding. Spurring timely recovery at the community level will send a powerful message of hope to community disaster survivors, as well as create jobs that may prove crucial in keeping many residents in those communities. I firmly believe that we can make our public assistance program less process-oriented and more outcome-driven, and we are working toward exactly that. We are also working with our federal partners to improve the delivery of additional federal long-term recovery assistance.

#### Personal and Community Preparedness

While FEMA can and is making improvements to how we plan, organize, and respond in a catastrophic disaster, there remains one area of improvement that still needs considerable national attention: personal preparedness. Studies continue to indicate that far too many households do not have personal disaster plans that include provisions for assuring the self-sufficiency of their households for up to 72 hours following a disaster. A family should also think through personal preparedness plans in case of a catastrophic event that devastates their city. In fact, a recent survey found that only half of Americans have put together an emergency kit, and less than half – only 40 percent – have created a family emergency plan. I cannot emphasize enough just how problematic this could prove in a catastrophic environment, not only to the households, but to the efficacy of the overall incident management effort. Every family that fails to take even the most basic preparedness actions, such as having sufficient water and non-perishable

food to support the family for at least 72, is a family that will pull responders and critical resources away from those who truly need such assistance, both the casualties of the disaster, and our most vulnerable populations, such as persons with disabilities and children.

I've said it time and time again, and I will continue to say it: personal disaster preparedness is and must be a national priority, and every elected and appointed official at every level of government must make it a priority. Nothing will contribute more to saving and sustaining lives than a citizenry prepared and provisioned to live in a reduced-services environment in the days immediately following a catastrophic disaster. When basic infrastructure at the community level halts, as should be anticipated in a catastrophic event, the value of personal preparedness cannot be overestimated. Neighbors are almost always the most effective and most immediate first responders – never more so than when local first response assets have been impacted by the same catastrophic event.

Having a family disaster plan, keeping supplies for basic survival needs, and staying informed are the responsibility of every American. By being prepared, you can help your family and your community weather the initial hours and days following a catastrophic event and free up our first responders to help those who cannot help themselves.

We also have a responsibility, as a government, to make sure that our plans for response and recovery, to the extent possible, address the needs of the most vulnerable residents, and do not overlook citizens based on age, economics, or other factors such as disabilities. In catastrophic planning, as in all of our planning, we need to ensure we

include measures that directly address the unique needs of children, the elderly, the disabled, and any other groups that might face unique challenges in a disaster environment. The needs of these groups must be understood prior to an event and worked into the fabric of our overall response and recovery plans, not merely treated as an afterthought to pre-existing plans and procedures.

#### **Conclusion**

An incident of catastrophic proportions has the potential to imperil thousands of people, devastate hundreds of communities, and produce far-reaching economic and social effects. The scope of needs will be large, immediate, novel and profound, and the entire national emergency management, public health, security, law enforcement, critical infrastructure, medical and all other components that make up community must be prepared to respond, and respond in ways that lie outside the normal paradigms in which we traditionally operate.

I recognize that we need to take our planning and preparedness to a new level, and have charged my new leadership at FEMA to do exactly that. But again, effectively enabling mitigation and responding to catastrophes is not something FEMA can do alone. Organizations at every level of government, as well as those within the private and voluntary sectors, must make major investments in time and preparation. And given that these types of disasters are rare and tend to overwhelm local and state governments, our nation's citizens and families must recognize and embrace their own responsibilities to be prepared, and take the actions necessary to assure that they are.

Thank you, Madam Chairwoman, we look forward to working with the committee as we continue to improve our preparedness for the challenges of a catastrophic disaster.

I look forward to your questions.

<b>Question#:</b>	1
<b>Topic:</b>	public assistance
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
<b>Committee:</b>	TRANSPORTATION (HOUSE)

**Submitted by Department of Homeland Security - FEMA**

**Question:** In your testimony you mentioned your desire to make the Public Assistance program more outcome driven and less process oriented. As other witnesses have pointed out in their written statements, nearly 9 years ago, this Committee passed and Congress enacted a provision in the Disaster Mitigation Act of 2000, P.L. 106-390 that amended section 406 of the Stafford Act to require that FEMA move the public assistance program to work on the basis of estimates rather than actual costs.

When does FEMA expect to implement the requirement to promulgate this rule and have the public assistance program work on the basis of estimates?

Do you believe this will address the concerns you raise about the Public Assistance Program?

**Response:**

FEMA is in the process of developing a regulation to implement these requirements. By having an early estimate of the funding applicants will receive from FEMA before a project begins, or as an applicant begins a project, an applicant will be able to better budget, plan, and manage the project. Early assessment of costs lessens administrative costs and burdens, as FEMA would not need to be onsite for the length of the project. I believe this will be an important improvement that will help the Public Assistance Program focus on achieving the objective of helping communities recover better and faster after disasters.

<b>Question#:</b>	2
<b>Topic:</b>	shelter
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
<b>Committee:</b>	TRANSPORTATION (HOUSE)

**Question:** In your testimony you describe a number of scenarios that would require hundreds of thousands of citizens to seek short or long term shelter.

What steps is FEMA taking to prepare for such catastrophic scenarios?

Do you believe additional authority would be needed to provide for so many citizens?

**Response:**

Disaster housing, particularly in a catastrophic incident environment, is not a mission that FEMA can, or will ever be able to handle alone. FEMA can bring an enormous number of financial and material resources to bear, however, the sheer size, scope, and duration of a catastrophic housing mission will require the committed, coordinated, and unified involvement and aggressive engagement of multiple federal agencies, the State, local and tribal governments, the private sector, and voluntary agencies. Only by working together, and leveraging all of our respective strengths and capabilities, can we achieve the kind of timely and comprehensive housing response that disaster survivors need and that our nation has come to expect.

FEMA has worked to increase our ability to provide assistance to States in mass care and emergency assistance. We are currently creating tools, enhancing working relationships with government, voluntary organization and private sector Mass Care providers, identifying resources, and developing support documents (SOPs, guidelines, ConOps, etc.) that will enhance the ability of FEMA to respond to catastrophic events. The guidelines and plans will allow States to share resources through Emergency Management Assistance Compacts (EMAC) and develop strategies to acquire additional resources. These include:

- Establishing contract mechanisms with mass care providers that allow us to support and enhance State and local feeding, sheltering and emergency distribution capabilities.
- Evaluating the need to alter Individual Assistance-Technical Assistance Contracts (IA-TAC) to support various phases of Mass Care, including sheltering, feeding and distribution of emergency supplies. The IA-TAC contractors have billions of dollars of capability in acquiring, securing, mobilizing and delivering mass care services, supplies

<b>Question#:</b>	2
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<b>Committee:</b>	TRANSPORTATION (HOUSE)

and equipment that will allow FEMA to support hundreds of thousands of disaster survivors.

- Developing shelter planning tools, including:
  - o The National Shelter System Database, which provides partner agencies with updated shelter locations, capabilities, and populations.
  - o A Shelter Assessment template, which provides a format for rapidly assessing shelter capabilities and support needs.
  - o A Multi-Agency feeding template, which helps match feeding needs with capabilities.
  - o Family reunification systems that help families locate and communicate with missing family members.
    - The National Emergency Child Locator Center was established in collaboration with the National Center for Missing and Exploited Children to help local and tribal governments and law enforcement agencies track and locate children who have become separated from their parents or guardians as a result of a Presidentially declared disaster. The Center is located and managed in the facility of the National Center for Missing and Exploited Children, with support from the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA).
    - The National Emergency Family Registry and Locator System (NEFRS) is a web-based system designed to assist in the reunification of families separated and dispersed as a result of Presidentially declared disasters. The system functions under FEMA's Emergency Support Function # 6 – which provides, emergency assistance, housing, and human services.
  - o Host State shelter protocols have been established for cost reimbursement. This allows for direct reimbursement to the States providing shelter without having to incur delay processing reimbursement through the declared State.
  - o An Evacuee Support Planning Guide, which helps States and locals plan for extraordinary shelter operations.
  
- Providing mass evacuation tools, including:
  - o A functional needs assessment tool to help determine level of care needed.
  - o Guidance in evacuation planning for household pet and service animal needs.
  
- Adding Mass Care Program enhancements, including:
  - o Blanket purchase agreements for food, medical equipment and shelter kits, which reduce the time required to provide these items to the State during an event.
  - o Pre-scripted mission assignments are in place for federal agency support. This accelerates the process for support FEMA frequently request during a disaster. For example, FEMA has a pre-scripted mission assignment with the U.S. Army Corps of

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<b>Committee:</b>	TRANSPORTATION (HOUSE)

Engineers to implement their Blue Roof mission to assist families in being able to continue to live in their roof damaged homes.

- o American Red Cross partnership enhancements and contracts providing planners at FEMA HQ and in each FEMA region. This enhances our planning and response coordination between FEMA and the Red Cross.
- o Revision of IA Technical Assistance Contract (IA-TAC) to provide rapid response capability and assist Regions with their planning processes via contractor support.

Standing committees, both within and external to FEMA, have focused on improving our close working relationship with our federal, state and local partners at the national and regional levels and have created an established process for rapid response and accelerated recovery.

Since Katrina, FEMA has also added the following vehicles for improved planning, coordination, and delivery with all our partners:

- The National Advisory Council provides a senior leadership forum to advise the Administrator on FEMA issues including individual assistance and housing programs.
- The National Disaster Housing Task Force provides opportunity for all federal agencies involved in disaster housing to have input into strategic planning for disaster housing.
- State Led Disaster Housing Task Forces are partnerships for implementing temporary housing solutions following a disaster. Many states are establishing these as permanent coordinating and planning entities.
- Regional Advisory Councils provide a senior leadership forum to advise the Regional Administrators on FEMA issues including individual assistance and housing programs.
- ESF-6 Partners Group brings working level representatives together to coordinate both during disasters and in preparation for planned events.

Additionally, the newly established Children's Working Group, an internal agency implementation team, will focus on ensuring children's needs are accounted for in disaster planning and response.

For disasters where we have advance notice (such as hurricanes), FEMA has expanded its capability to communicate and coordinate with our federal, state, and local partners through video and telephone conferences. This coordination effort, coupled with pre-positioning of supplies and personnel, and streamlined policies for reimbursement, greatly enhance our response capabilities.

<b>Question#:</b>	2
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Below is a summary of two recent policies in effect for Hurricanes Gustav and Ike that are improvements based on the lessons learned from Hurricanes Katrina and Rita. They were developed to allow for immediate assistance to provide an option for sheltering and to expedite immediate cash assistance when requested by the State. These policies follow the FEMA/State cost share criteria and the state must approve the assistance quickly in order for it to be useful as an alternative to congregate sheltering:

- Transitional Shelter Assistance can be used immediately, to provide individuals non-congregate shelter assistance.
- Critical Needs Assistance expedites the awarding of limited financial assistance for life-sustaining items such as, water, food, first aid, etc, prior to an inspection.

<b>Question#:</b>	3
<b>Topic:</b>	housing
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
<b>Committee:</b>	TRANSPORTATION (HOUSE)

**Question:** The final National Disaster Housing Plan was issued in the evening on the last business day of the Bush Administration. This plan was required by the Post Katrina Act, and was issued late. This plan has been criticized as being inadequate.

Does FEMA intend to relook at this plan?

**Response:**

Yes. Pursuant to the National Disaster Housing Strategy in January 2009, FEMA has established a National Disaster Housing Task Force (NDHTF) to provide a fulltime, multi-agency focus on disaster housing related issues, to elevate the significance of disaster housing preparedness in all jurisdictions, and to oversee implementation of the Strategy. The NDHTF is composed of Federal agency partners in disaster housing such as the Department of Housing and Urban Development, the Department of Health and Human Services, Department of Agriculture and the Department of Veteran's Affairs.

As the NDHTF conducts its work it will identify ways to improve the strategy. The Task Force will provide an important medium for identifying improvements to the strategy. Additionally, it provides the collaborative foundation upon which to build an improved National Disaster Housing Strategy.

In accordance with the Post-Katrina Emergency Management Reform Act, FEMA will formally update the strategy at least every five years.

<b>Question#:</b>	4
<b>Topic:</b>	PFO/FCO
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
<b>Committee:</b>	TRANSPORTATION (HOUSE)

**Question:** As other witnesses have described in their written testimony, one source of the very confusing red tape after a disaster are functions and positions at DHS that duplicate the FEMA's statutorily mandated role. Most notably DHS's Principal Federal Official (PFO) that conflicts with the statutorily created Federal Coordinating Officer (FCO) at FEMA, these duplicative functions were cited as a primary cause of the failed Federal response to Hurricane Katrina. Congress put a number of statutory provisions in place to avoid these duplications. Yet DHS seeks their repeal. Further DHS continues to rely on administrative documents that have been overruled by statute, such as HSPD-5 and the National Response Framework to attempt to disregard these same statutory provisions.

Can you explain why DHS plans to use these duplicative functions such as the PFO, notwithstanding the law and clear lessons of Hurricane Katrina?

Can you explain why DHS plans to use these duplicative functions such as the PFO, notwithstanding the law and clear lessons of Hurricane Katrina?

**Response:**

The Homeland Security Act of 2002 (HSA), as amended by the Post Katrina Emergency Management Reform Act (PKEMRA), designates the FEMA Administrator as the principal advisor to the President and the Secretary for all matters relating to emergency management in the United States. The authorities of the Secretary and the Administrator are not mutually exclusive (as noted, under PKEMRA the Administrator is designated as the principal advisor to the Secretary), and therefore, do not appear to be in conflict with Executive Directives.

Section 102(a)(2) of the HSA states, "The Secretary is the head of the Department and shall have direction, authority, and control over it." Further, Section 102(a)(3) states, "All functions of all officers, employees, and organizational units of the Department are vested in the Secretary." Section 2 of the HSA defines "functions" as including "authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities." These provisions in the HSA were not amended by PKEMRA or any law since, and we believe that they can be read consistently with the Administrator's authority.

The Secretary of DHS HSPD-5 Authorities include:

<b>Question#:</b>	4
<b>Topic:</b>	PFO/FCO
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
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- Serves as the **Principal Federal Official for domestic incident management;**
- Responsible for **coordination of Federal resources** utilized in the prevention of, preparation for, response to, and recovery from terrorist attacks, major disasters, or other emergencies;
- Provides the President with **overall architecture for domestic incident management and to coordinate the Federal response**, when required, while relying on the support of other Federal partners; and
- Contributes elements of the response consistent with DHS mission, capabilities, and authorities.

The Primary Roles of the Principal Federal Official include: (Source: NRF)

1. Serves as the Secretary of DHS's primary representative to ensure consistency of Federal support and the overall effectiveness of Federal incident management;
2. Interfaces with Federal, State, tribal, and local officials regarding the overall Federal incident management strategy;
3. Serves as the primary federal spokesperson for coordinated media and public communication;
4. Serves as the primary point of contact for situational awareness locally for the Secretary;
5. Promotes collaboration and resolves any Federal interagency conflicts that may arise;
6. Identifies and presents to the Secretary any policy issues that require resolution; and
7. Serves as a member of the Unified Coordination Group (UCG).

In contrast, the Role of the Federal Coordinating Officer, operates only in instances of a Presidentially declared disaster, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, works in conjunction with the State Coordinating Officer to:

1. Make an initial appraisal of the types of relief most urgently needed;
2. Establish field offices as deemed necessary and authorized;
3. Coordinate the administration of relief, including activities of State and local governments, the American Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his/her advice or direction; and

<b>Question#:</b>	4
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4. Take other such action consistent with the authority delegated to him/her as deemed necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

PFO's may be appointed by the Secretary of Homeland Security in situations where there has been no Stafford Act declaration.

<b>Question#:</b>	5
<b>Topic:</b>	HSPD-5
<b>Hearing:</b>	Post Katrina: What it Takes to Cut the Bureaucracy
<b>Primary:</b>	The Honorable Eleanor Holmes Norton
<b>Committee:</b>	TRANSPORTATION (HOUSE)

**Question:** Similarly DHS, has created an office of Operations Coordination at DHS whose role conflicts with many of statutorily mandated functions of FEMA. In doing so it again relies on outdated administrative documents (HSPD-5) that were overtaken by a subsequent statute, (the Post Katrina Act).

Can you explain the role of the DHS office of Operations Coordination in preparing for, responding to and recovering from disasters?

What is their role in relation to the FEMA in general and the FEMA Operations Center in particular?

Does the Administration intend to revise HSPD-5 and the National Response Framework to reflect current law on the PFO, Operations Coordination and other matters?

Does the Administration intend to revise HSPD-5 and the National Response Framework to reflect current law on the PFO, Operations Coordination and other matters?

**Response:**

The Department of Homeland Security has a vital mission, with five main areas of responsibility:

1. Guarding against Terrorism
2. Securing our Borders
3. Enforcing our Immigration Laws
4. Improving our Readiness for, Response to and Recovery from Disasters
5. Maturing and Unifying the Department

FEMA is not a law enforcement agency and thus their role is limited to disaster response. Both the Office of Operations Coordination, and the FEMA Operations Center serve a vital role of coordinating department activities in areas of prevention and protection.

The specific roles and responsibilities are identified below.

The Office of Operations Coordination is responsible for monitoring the security of the United States on a daily basis and coordinating activities within the Department and with

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<b>Committee:</b>	TRANSPORTATION (HOUSE)

governors, Homeland Security Advisors, law enforcement partners, and critical infrastructure operators in all 50 States and more than 50 major urban areas nationwide. Additionally, the office works to deter, detect, and prevent terrorist acts by coordinating the work of federal, state, territorial, tribal, local, and private sector partners and by collecting and fusing information from a variety of sources.

The Office is responsible for:

- conducting joint operations across all organizational elements;
- coordinating activities related to incident management;
- employing all Department resources to translate intelligence and policy into action; and
- overseeing the National Operations Center (NOC) which collects and fuses information from more than 35 Federal, State, territorial, tribal, local, and private sector agencies.

The mission of the FEMA Operations Center (FOC) is to receive, analyze, and disseminate a wide variety of all-hazards information in support of FEMA and the NOC, and to execute plans in support of Civil Continuity of Government. FOC functions include maintaining 24/7 situational awareness, issuing notifications and warnings, and coordinating operational support by:

- Maintaining a 24-hour, seven days a week (24/7) national situational awareness of potential, developing, or ongoing situations which could require a Federal response;
- Monitoring the preparedness and status of national level emergency teams and resources;
- Collecting, analyzing, evaluating, and distributing incident response and status of resources information; and
- Supporting the collection and distribution of information to the NRCC and NOC.

At this time, FEMA is considering if updates are needed to the National Response Framework. The National Advisory Committee, as created by the Post Katrina Emergency Management Reform Act, has a charge to also look at the National Response Framework and provide input on the document.

**DAVID MAXWELL**  
**Vice President, National Emergency Management Association**  
**and**  
**Director and Homeland Security Advisor,**  
**Arkansas Department of Emergency Management**

**TESTIMONY**  
**Before the**

**House Transportation & Infrastructure Subcommittee on Economic Development, Public**  
**Buildings and Emergency Management**

**on**

**"Post-Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid Response**  
**After a Catastrophic Disaster"**

**July 27, 2009**

**National Emergency Management Association**  
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NEMA Testimony on Catastrophic Disasters  
House Transportation & Infrastructure Committee  
July 27, 2009

### **Introduction**

Thank you Chairwoman Norton, Ranking Member Diaz-Balart and distinguished members of the Subcommittee for inviting me to appear before you to discuss catastrophic disasters and how the Federal government can best support State and local government response and recovery efforts. I am David Maxwell, Director and Homeland Security Advisor for the Arkansas Department of Emergency Management. I was appointed to the position in June 2006. I served as deputy director from March 2002 until this appointment and have 30 years of experience in emergency management. I am testifying today as Vice President of the National Emergency Management Association (NEMA) whose members are the Governors' emergency management directors in the 50 States, U.S. territories and District of Columbia.

### **What is a Catastrophic Disaster?**

The definition of a catastrophic disaster is an issue that NEMA has been discussing since Hurricane Katrina devastated the Gulf Coast in 2005. The challenge lies in the fact that what constitutes a catastrophic disaster in one State or community may not be catastrophic in another. There's no question that Hurricane Katrina was a catastrophic disaster for the thousands of citizens, hundreds of communities, counties and parishes, and the States that were affected by its destructive forces. Similarly, should an earthquake occur on the New Madrid fault line it could be catastrophic for an entire region of the United States. These types of events are of such scale and complexity that they require additional response and recovery efforts beyond what we've seen in the past. But again, the term "catastrophic" is relative. The U.S. has rarely seen the death and destruction caused by natural disasters in other parts of the world. For example, the 2008 earthquake in China's Sichuan Province that left 374,000 people dead or injured and 15 million people displaced, or the 2004 Indian Ocean tsunami that left 230,000 people dead or missing.

There is also the issue of repetitive disasters that significantly impact a given community or State within a specified period of time. Each individual event may not be catastrophic but the cumulative effect can decimate local budgets, severely disrupt business and economic development, and leave individuals and families struggling to rebuild their lives. The term "catastrophic" can be subjective and therein lays the challenge in defining it.

### **Robert T. Stafford Disaster and Emergency Relief Act**

The Robert T. Stafford Disaster and Emergency Relief Act was written broadly so as to allow Presidential discretion and flexibility. NEMA believes that unnecessarily strict and narrow interpretations of the law are more of a problem than the law itself. FEMA policies and regulations are overly restrictive and don't reflect the original intent of the Stafford Act. Further, decisions by FEMA personnel in the field are often inconsistent between States and

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Regions. As field personnel changes, previous decisions are frequently overturned. The FEMA appeals process takes months and sometimes years. These problems are due to subjective interpretations of the Stafford Act which end up costing State and local government precious time and resources for community restoration. The Office of Management & Budget (OMB) has taken a significantly increased role in the development of policy and decision-making related to Federal disaster assistance. The opinions of attorneys and auditors seem to take precedence over the intended discretion and flexibility that Congress provided through the Stafford Act. All of these issues combined serve to create a Federal bureaucracy that can paralyze large scale disaster response and recovery.

NEMA recently established a working group to consider if changes are needed to the Stafford Act or whether issues can be addressed through regulation or policy. Our work has just begun so I'm not in a position to share specific recommendations with you today, but we commit to sharing our work with you in the near future. I am confident in stating that NEMA strongly believes the Federal government is not fully utilizing the power of the Stafford Act. In the words of one of my colleagues, "if it's legal, moral, ethical and the right thing to do to help disaster victims, we should do it."

#### **Catastrophic Disaster Planning**

Arkansas has benefitted from the FEMA catastrophic disaster planning initiative as we prepare for the possibility of a New Madrid earthquake. The planning templates are quite useful and the contractor support has allowed us to make good progress. The challenge in catastrophic disaster planning is there is little experience to draw from, certainly with regard to a New Madrid earthquake. Realistic scenario data is difficult to utilize when the scenario development is based on limited databases and in some cases on population figures alone. The data is not robust enough for confidence in the "realistic" scenario development. In Arkansas, we think we know how the roads, bridges and other infrastructure will perform in a New Madrid event, but we're not 100 percent certain so our plans have to be flexible. Despite these limitations, I would encourage Congress to continue to support and fund FEMA's catastrophic planning initiative. I'm also pleased that the National Level Exercise in 2011 will be focused on a New Madrid earthquake and it's my hope that the scenario will be as realistic as possible. This will be the first natural disaster scenario in the history of the NLE.

I'd also recommend that the U.S. increase its study of the occurrences around the world that may serve as lessons and critical information in determining the approaches to preparedness, mitigation, response and recovery efforts that need to take place here. Catastrophic disaster planning requires a comprehensive approach that includes scientific research and data collation which helps us better risk and probability. Comprehensive plans, capabilities and recovery strategies can then be based on credible data. Significant increased investment is needed in this area if we are to truly have an impact on the outcomes of the catastrophic disasters we may face.

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#### **Redefine Outcomes for Large Scale Disaster Response and Recovery**

NEMA is extremely supportive of the new leadership at FEMA. This team, led by Administrator Craig Fugate, is comprised of experienced, professional emergency managers who are innovators and have a vision for a world class emergency management system. Now is the time to redefine the outcome we want in large scale disaster response and recovery, and to align legislation and policies to support that outcome.

We must also do a better job of leveraging all of the resources available to us in catastrophic disaster response and recovery, including the public and the private sector. A focused, long term emphasis on personal preparedness is vital to the nation's ability to effectively recover from large scale disasters. Government can't be solely responsible for recovery nor should it be.

#### **Full Spectrum Recovery and Restoration**

The current approach to long term disaster recovery is ad hoc at best. There are significant differences in the Federal government's support for recovery efforts in Louisiana and Mississippi from Hurricane Katrina, for Hurricane Ike in Texas, and for the 2008 Iowa floods. Those are just a few examples. While every disaster is unique, it would be extremely helpful for State and local officials to know in advance the types of assistance that may be available to them for long term recovery. In addition, having a Federal counterpart that could help them access and leverage the various Federal programs for recovery would be helpful – this is an ideal role for FEMA. But FEMA can't do it alone. All Federal agencies with resources that can be applied to disaster response and recovery must actively participate in the process and do a better job of providing information about their programs and making them more accessible.

NEMA would recommend the development of a "full spectrum disaster recovery and restoration capability". Initial steps for the development of such a system may include:

- Identify those disasters that may be of such scale and complexity that they require unique response and recovery efforts. Identify triggers for various types of assistance to be delivered in phases or tiers.
- Determine the capabilities and resources needed at the local, State and Federal level for long term recovery.
- Define the continuum of recovery and restoration – immediate, short term, and long term. Identify the role of emergency management along the continuum as well as that of other agencies and non-governmental organizations that may have additional or even greater expertise or resources to apply to long term recovery and restoration.

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- Identify laws and authorities that may need to be amended to support full spectrum disaster response and restoration or establish new laws and authorities as well as funding streams.
- Require all Federal agencies with roles and responsibilities to improve coordination and implementation of recovery programs in support of community restoration. Examine Federal programs to determine if they are underfunded or not funded at all.
- Identify ways to “operationalize” ESF 14 Long Term Recovery.

Another issue to consider is the determination of when a community has sufficiently recovered to the point that Federal resources are no longer warranted. Full recovery for a community is not only economic, but also societal.

The main point that I’d like to make today is that we need not be confined to outdated systems and approaches to disaster response and recovery, particularly for large scale events. As stated previously, we need to define the outcome that we want, build and resource the system that supports that outcome, build the team (local, State, Federal, public, private) that can manage the event, and provide leaders with the appropriate discretion and flexibility to ensure a successful outcome.

Thank you for the opportunity to present testimony on this important topic, and thank you for your support of emergency management. NEMA remains a ready resource for the Committee as you tackle the tough issue of catastrophic disaster response and recovery.

**QUESTIONS SUBMITTED FOR THE RECORD BY  
CONGRESSWOMAN ELEANOR HOLMES NORTON**

**NATIONAL EMERGENCY MANAGEMENT ASSOCIATION  
Testimony Presented July 27, 2009**

**David Maxwell**  
**Vice President National Emergency Management Association (NEMA)**  
**Director, Arkansas Department of Emergency Management**

*Question:* In your testimony you state the Stafford Act was written very broadly to give discretion to the President but express concerns how FEMA implements that authority. How do you believe FEMA is overly restrictive in its policies and regulations? Why do you think this is so? Can you give examples?

**Answer:** Three primary concerns of state and local officials regarding FEMA policies and regulations include documentation requirements, management costs, and inconsistent application processes. The most significant challenge continues to be the difference between the level of documentation required to meet the needs of the FEMA public assistance program personnel and the level of documentation required by auditors from the Office of Inspector General (OIG). It stands to reason if the procurement process, documentation, and reasonable costs for a public assistance project is approved by FEMA then that project should also be acceptable to the OIG.

The issue of management costs remains one of the most critical regulatory issues confronting states over the years. Current regulations rarely allow states to fully recover the true costs of managing a disaster. States and local jurisdictions are forced to pay significantly to manage the Federal public assistance program since roughly half the management costs go unfunded. FEMA contends that the management cost allowance is meant as a supplemental contribution, and not as full funding. States understand cost-share arrangements; they routinely contribute their fair portion to many federal programs. What is troubling, however, is the constant erosion of Federal funding for programs such as Public Assistance in an apparent effort to shift these costs to the states. The sub-grantees or local governments ultimately suffer the most because states will be forced to cut what funding these entities would normally receive.

The third issue of importance is the inconsistent interpretation and application of disaster assistance policy among FEMA regions. Difficulties exist because there are discrepancies between interpretations of FEMA rules by varying personnel within and between FEMA Regions. As was stated at the hearing the opinions of attorneys and auditors seem to take precedence over the intended discretion and flexibility that Congress provided through the Stafford Act.

All of these issues combined serve to create a Federal bureaucracy that can paralyze large scale disaster response and recovery. Since the time of the testimony provided, however, FEMA has taken the concerns of state and local officials seriously and is currently conducting a review of policies to see where prohibitive Stafford Act restrictions may exist. As any Stafford Act changes are reviewed, FEMA and Congress should be mindful to maintain significant flexibility for State and local jurisdictions.

*Question:* In your testimony you raise a concern that when FEMA changes personnel in the field previous decisions are overturned. Do you have any specific suggestions on how to address this concern?

**Answer:** During an event local officials and FEMA representatives continually collaborate on FEMA support efforts and how best to integrate those efforts into the response mechanism. As the response phase turns to recovery and the long-term recovery effort there naturally exists a steady rotation of FEMA personnel in and out of the region. Due to the rotation of personnel and the compression of time during an event, practicality does not always allow for a fluid transition from one FEMA representative to the next. As new representatives rotate into the event, there is a steep learning curve regarding previous decisions made and often a tendency for incoming FEMA personnel to initially reject plans for support already under discussion. One specific suggestion on how to mitigate this effect is for FEMA personnel arriving on the scene to resist the temptation to initially reject existing arrangements and discussions. FEMA representatives, including the Inspector General, should be looking for ways to approve legally permissible funds expenditures rather than looking for prohibitive restrictions.

*Question:* You have called for the reauthorization for the grant program that supports the Emergency Management Assistance Compact (EMAC). What does EMAC do? Is it more or less important in a catastrophic disaster? Why?

**Answer:** The Emergency Management Assistance Compact (EMAC) is a nationally adopted mutual aid agreement that allows states to share resources such as personnel, equipment, commodities, and services during an emergency or disaster. All 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam have passed legislation to become EMAC Members. EMAC has also been ratified by the U.S. Congress as Public Law 104-321.

EMAC becomes more important in a catastrophic disaster because such a scenario often involves multiple communities, cities, or regions. These local jurisdictions stand as the first options for disaster assistance before resorting to EMAC requests. When communities are affected with smaller scale incidents assistance can often be offered by nearby jurisdictions without Federal or assistance from EMAC Member States.

By contrast, if the northeast was affected by a manmade or natural disaster EMAC serves as a vital conduit for resources to reach an impacted state in collaboration with Federal resources. This allows states to leverage Federal dollars that went to states and local governments to build capacity to be used in a national response. The United States Government Accountability Office found (GAO-0-854) that on September 10, 2005, the EMAC response to Hurricane Katrina accounted for 52 percent of the resources deployed to the Gulf Coast. The U.S. House of Representatives Select Bipartisan Committee on the response to Hurricane Katrina stated that “The Emergency Management Assistance Compact, a critical part of the national emergency management framework, successfully provided unprecedented levels of response and recovery personnel and assets to the Gulf coast in record time following Hurricane Katrina. EMAC is designed by statute to be adaptable and scalable to meet the changing needs of each event. EMAC was widely praised for its quick and effective process for putting vital resources into every aspect of the response.” EMAC is a vital function of the emergency response network providing legal protections to response and recovery personnel as well as coordination with the Federal response.

**Question:** What is Emergency Support Function 14 – Long Term Recovery? Is this important for catastrophic disasters? How would you “operationalize” this function?

**Answer:** The 15 Emergency Support Functions (ESF) are part of the *National Response Framework*. The ESF’s organize a potential response into functional areas such as transportation, chemical/biological, and medical capacity among others. ESF 14 relates specifically to Long-Term Community Recovery and Mitigation and provides a framework for Federal Government support to State, regional, local, and tribal governments, non-governmental organizations (NGOs), and the private sector to enable community recovery from the long-term consequences of an “Incident of National Significance.” This support function is critical to the recovery process following a catastrophic event because it is supported by programs that enable all levels of government to better conduct long-term recovery operations.

ESF 14 is “operationalized” by allowing communities to conduct risk reduction activities prior to an event, allow governments to tailor assistance based on circumstances following an event, and advise on the long-term recovery implications of response activities. There is an opportunity in the implementation of ESF 14 for FEMA to assist States by playing a greater role in the coordination of Federal disaster assistance programs and resources available from other Federal agencies. State and local officials are often left to navigate the maze of Federal agencies without assistance from FEMA.



**MEMORANDUM**

July 23, 2009

**To:** Honorable Eleanor Holmes Norton, Chair  
Subcommittee on Economic Development, Public Buildings and Emergency Management  
Committee on Transportation and Infrastructure

**From:** Francis X. McCarthy, Analyst, Emergency Management Policy, Government and Finance  
Division

**Subject:** "Post Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid  
Response After a Catastrophic Disaster"

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TESTIMONY OF

FRANCIS X. MCCARTHY

ANALYST IN EMERGENCY MANAGEMENT POLICY

GOVERNMENT AND FINANCE DIVISION

CONGRESSIONAL RESEARCH SERVICE

LIBRARY OF CONGRESS

BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC  
BUILDINGS AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

JULY 27, 2009

Good afternoon. It is an honor to appear before you today to present testimony regarding legislative options for catastrophic disasters. My work at the Congressional Research Service over the last three years has centered on disaster recovery programs and processes. Prior to my work at CRS I was privileged to have a 25 year career at the Federal Emergency Management Agency (FEMA) in work that is directly related to the issues being considered in this hearing.

Several fundamental issues arise in considering how to cut the red tape and accelerate federal assistance following a catastrophic or mega-disaster. Arguably the first question is the respective roles of the executive and legislative branches. Traditionally, both have played a key role in the response to large disaster events. The executive branch, particularly FEMA, has administered, on behalf of the President, the Robert T. Stafford Disaster Relief and Emergency and Assistance Act, Public Law 93-288.<sup>1</sup> Congress has authorized that statute and amended it through the years. Also Congress has, through both annual appropriations and supplemental appropriations, funded those FEMA Stafford Act response and recovery programs and, in addition, has also provided funds through other departments and agencies to meet specific post-disaster needs. Often times, this process has been an effective and complementary inter-branch partnership to address the complicated problems following a large disaster event that overwhelms a state or several states.

Within the context of this discussion some have suggested that, for catastrophic events, the FEMA Administrator could be provided, through legislation, the discretionary authority to create lump sum or block grant payments as needed, and other additional authorities, to speed up the recovery process and eliminate some of the “red tape.”

Some have also argued that while discretion to designate a disaster a catastrophic event could be exercised by the President, it might be a more reliable approach to have a catastrophic “trigger” based on the amount of estimated damage. When that trigger is activated, lump sum or block grant payments to a jurisdiction would be authorized along with other administrative changes. Also more favorable cost-shares for state and local governments could be triggered similar to the current FEMA cost-share policy.<sup>2</sup>

The creation of a threshold dollar amount to trigger increased cost-shares as well as other exceptional procedures such as lump sum payments may be a critical part of the debate. Current cost-share thresholds are clear, but these standards are under pressure from states seeking a waiver of costs even if their per capita damage amounts do not meet the threshold. While most observers would agree that Hurricane Katrina was an outlier of remarkable cost and scope, officials in other states affected by disasters may consider Katrina not an outlier but a precedent and expect similar considerations. With extraordinary measures available for catastrophic events, and concern with federal expenditure levels, it becomes even more important to define a catastrophic event.

In my testimony I will discuss several suggested approaches. An additional consideration may be that when the threshold for expanded assistance has been reached, it could also trigger the President’s official notification to Congress of the use of catastrophic authorities, similar to notification procedures for emergency spending.<sup>3</sup> The notification could also serve as the vehicle to engage the Congress with

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<sup>1</sup> 42 U.S.C. 5121-5206.

<sup>2</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, “Cost Share Adjustment History,” June 4, 2009, [http://www.fema.gov/media/fact\\_sheets/cost-share.shtm](http://www.fema.gov/media/fact_sheets/cost-share.shtm).

<sup>3</sup> 42 U.S.C. 5193. This section directs the President to report to Congress when emergency costs exceed \$5 million. The report must identify emergency assistance requirements and any legislation that may be needed.

suggested funding requirements and potential legislation that could move the response and recovery along.

## Lump Sum Payments in Recent Legislation

### Hurricanes Katrina and Rita

The Consolidated Appropriations Act of 2009 directed FEMA to accept lump sum payment requests from several specific categories of applicants.

Sec. 546. Notwithstanding any other provision of law, and not later than 30 days after the date of submission of a request for a single payment, the President shall provide a single payment for any eligible costs under Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) for any police station, fire station, or criminal justice facility that was damaged by Hurricane Katrina of 2005 or Hurricane Rita of 2005: Provided, That the President shall not reduce the amount of assistance provided under section 406(e)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) for such facilities: Provided further, That nothing in the previous proviso may be construed to alter the appeal or review process relating to assistance provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172).<sup>4</sup>

There has been congressionally directed funding in the past that directed some forms of FEMA disaster spending, but P.L. 110-329 may have contained the first legislative direction that stipulated a single payment for a discrete group of applicants. The rationale for this direction would arguably be the importance of the public safety infrastructure in the recovery of a community. It is possible that similar arguments could be made on behalf of other types of public damage involving roads, buildings, and public water and utility facilities. However, FEMA reports that despite the authority granted in P.L. 110-329, neither the state of Louisiana nor any applicant has requested a single payment.<sup>5</sup>

### H.R. 3247, the proposed "Hurricanes Katrina and Rita Recovery Act of 2007"

As considered by the 110<sup>th</sup> Congress, H.R. 3247 would have provided specific relief to another discrete group: public facilities that were used in response operations.<sup>6</sup> These included meeting centers that sustained damage from their use as shelters and also lost income through cancellations due to their disaster-associated use. The bill would have allowed for their compensation and established the boundaries of that compensation.

The same legislation also sought increased lump sum payments for all smaller project applicants.<sup>7</sup> To accomplish this, the bill would have expanded the payments for Section 422 of the Stafford Act, the Simplified Procedures section, up to \$100,000.<sup>8</sup> Section 422 is sometimes called the "small projects" section and its limit was initially set at \$35,000, but through annual increases, the limit is now just over

<sup>4</sup> P.L. 110-329, Title V, Section 546, 122 Stat. 3689-3690.

<sup>5</sup> E-mail correspondence from Nicole Dyson, FEMA Office of Congressional Affairs, May 21, 2009.

<sup>6</sup> H.R. 3247, "Hurricanes Katrina and Rita Recovery Facilitation Act of 2007," Section 3(g).

<sup>7</sup> *Ibid*, Section 3 (e).

<sup>8</sup> 42 U.S.C. 5189.

\$64,000.<sup>9</sup> This section permits payments that are based on estimates, and as such were the precursor of the cost-estimating procedure authorized in the Disaster Mitigation Act of 2000. As Congress did not approve H.R. 3547, these provisions did not take effect.

### 9-11 Attacks – New York

One other notable outlier was contained in the Consolidated Appropriations Resolution of 2003. The language in the Act provided for spending outside of the parameters of the Stafford Act so that the City and State of New York could complete projects related to the 9-11 attacks that did not fall within the eligibility regulations of the Stafford Act. The language was contained in the Administrative Provisions of the bill.

Notwithstanding any other provision of law, funds appropriated to the Federal Emergency Management Agency (FEMA) for disaster relief for the terrorist attacks of September 11, 2001, in Public Law 107-117, may be used to provide funds to the City of New York and the State of New York for costs associated with such attacks that are unreimbursable under the Stafford Act, including but not limited to the non-Federal share of relevant programs.<sup>10</sup>

### Existing Authorities for Alternative Approaches

The Disaster Mitigation Act of 2000, Public Law 106-390, provided FEMA the authority to pay for large public assistance projects based on cost estimates in place of the reimbursable system currently employed. It also called for establishment of an expert panel to develop procedures for such estimates. This authority appears as a part of Section 406 of the Stafford Act that addresses the repair, restoration, and replacement of damaged facilities.<sup>11</sup>

FEMA convened the “expert panel,” as established in law, in the fall of 2002 and conducted workshops to develop the regulations to implement this authority.<sup>12</sup> But regulations have never been promulgated to actually implement the authority in the law in the intervening years. FEMA has developed cost-estimating formats; in fact they have been working in that area since 1998, but those have not led to rapid awards or to cumulative settlements. Some observers have speculated that one sticking point is that the cost-estimating procedure, if fully carried out and agreed to initially, could still be appealed and the repair and restoration work would then revert to the current system.<sup>13</sup> Others have speculated that FEMA leadership was uncertain of maintaining accountability and also feared an increase in expenditures, and a speeding up of outlays, if costs were based on estimates and paid out early in the disaster.

The Post-Katrina Emergency Management Reform Act (PKEMRA, P.L. 109-295) authorized a Public Assistance Pilot Program to reduce federal costs, increase administrative flexibility, and speed up the process to improve program performance.<sup>14</sup> One area evaluated in the Pilot Program is “Grants Based on

<sup>9</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, “Notice of Adjustment of Disaster Grant Amounts,” 73 *Federal Register* 60302, Oct. 10, 2008.

<sup>10</sup> Public Law 108-7, 117 Stat. 517.

<sup>11</sup> 42 U.S.C. 5172. The estimating section is (e) (1) and (2).

<sup>12</sup> Federal Emergency Management Agency, *Public Assistance – Expert Panel on Cost Estimating – Recommendation Report of Federal Advisory Committee*, Oct. 2002, at [<http://www.fema.gov/pdf/government/grant/pa/cefrep.pdf>].

<sup>13</sup> 42 U.S.C. 5172 (e)(2)(C).

<sup>14</sup> 6 U.S.C. 777, Section 689(j), 120 Stat. 1455.

Estimates.” In its conclusion, FEMA’s report on the Pilot Program notes the cost-estimating authority that already exists.

The Grants Based on Estimates procedure allowed FEMA to implement a component of Stafford Act authority on cost estimating methodology that Congress authorized in the Disaster Mitigation Act of 2000 and for which the development of regulations is underway.<sup>15</sup>

The report does not explain the delay in the development of the regulations, but appears to indicate that work is moving in the direction of implementing regulations. Despite the long-standing hesitancy to implement this authority, this existing provision of law does provide the basis for formulating block grants for state and local governments that might speed federal aid after a catastrophic event.

### Alternative Funding Proposals for Public Assistance

The idea of alternatives to the Public Assistance (PA) program has received attention in the past (as in the Cost Estimation authority discussed above) and has recently been the subject of some academic interest. In a recent paper, several observers pointed to rapid payments as a key to improved recovery following a catastrophic event.

Where possible, money appropriated by Congress following a catastrophe should also be provided directly to state and local governments in the form of block grants. This will eliminate the burden and associated time delays placed on federal agencies as they distribute the assistance, and it will give state and local governments flexibility in using the money as they see fit.<sup>16</sup>

Advocates of rapid lump sum or block grants would still want to ensure some of the same accountability that is present in a reimbursable program, as the PA program is presently constituted. Arguably, there are examples of block grant programs that do retain accountability. For example, the Community Development Block Grant (CDBG) program at the Department of Housing and Urban Development (HUD) already plays a significant role in disaster recovery work. The CDBG program has 25 categories of eligible activities that present a broad array of possible projects.

A similar block grant could be developed for a post-disaster environment with categories adjusted to reflect the Stafford Act coverage and arguably to expand beyond it. One question of implementation would be how to determine that the amount of the block grant meets the needs of the affected area.

It is important to note at this point that while assistance to individuals and hazard mitigation grants are capped, there is no cap on the amount that may be spent for eligible PA projects. So the block grant is appealing for speed and clarity but it would likely be an amount certain while the PA amounts can change and accrue as the process is completed. One option might be to use the initial block grant as an incremental “down payment” on public disaster costs. Following the initial block grant, the regular PA Section 406 process could then be used to assure eligibility and to complete the funding of any projects beyond the initial block grant amount.

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<sup>15</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, *FEMA Public Assistance Pilot Program, Fiscal Year 2009 Report to Congress*, May 20, 2009, p. 11.

<sup>16</sup> Mitchell Moss, Charles Schellhamer, and David A. Berman, “The Stafford Act and Priorities for Reform,” *Journal of Homeland Security and Emergency Management*, vol. 6, Issue 1, 2009, p.14.

Currently, for most disasters, FEMA and the state jointly develop a preliminary damage assessment (PDA) to guide decision-making during the declaration process. FEMA's description of the PDA process follows.

The PDA process is a mechanism used to determine the impact and magnitude of damage caused by a disaster. It summarizes resulting needs of individuals, businesses, public sector, and community as a whole.<sup>17</sup>

PDAs are carried out by FEMA regional staff along with state and local officials. In some instances, officials from the American Red Cross (ARC) and the Small Business Administration (SBA) or other organizations may also be invited to participate.

If the PDAs become central to a proposed block grant process, it may also be important to look at the PDA process and how it can be improved.<sup>18</sup> Further, if increased assistance for a catastrophic disaster becomes law, the importance of damage estimates will greatly increase. Not all damage is readily apparent at the outset of a disaster and it is also difficult to determine the extent of damage until flood waters recede or inspectors can assess seismic or other forms of damage. The facts behind the damage estimate will drive these processes, so their quality and accuracy will only grow in importance.

### Discretion, Triggers and Thresholds

In discussions of alternative approaches for Public Assistance, the proposals generally assume that such alternate options would be available under a catastrophic or mega-disaster. What defines a catastrophic or mega-disaster? It could be left to the discretion of the President (or whomever he has delegated the authority) to determine what constitutes that level of disaster. By investing these authorities in the executive branch beforehand, it arguably would permit the swiftest, most flexible action without the necessity of new authorities being legislated as the disaster event unfolds. However, providing such discretion to leadership might only provide the possibility of effective action. Some executives may choose not to exercise the increased authority to designate a catastrophic event and instead seek out consistent policies with ample historical precedents. Conversely, the executive branch might also be tempted, or pressured, to invoke the use of the discretionary power too easily. While the measurements of pain and physical loss are difficult to set at certain levels, that approach may be necessary.

For the purpose of establishing a national decision-and-action mechanism to take extraordinary steps, a definition is needed of conditions under which such a capacity would be brought to play. Otherwise, a special mechanism to respond could risk becoming a new form of moral hazard. Governors and congressional delegations would be tempted to pressure the President to declare their hurricane, fire, or blizzard eligible for special status in the hope that an extraordinary procedure would produce more financial and other aid than would be obtained through ordinary channels.<sup>19</sup>

A starting point for the triggering of a catastrophic tier could be built upon FEMA's current approach to adjusting the federal cost-share (from 75% to 90%) based on the per capita eligible disaster damage within a state. Under FEMA's current policy, a state is not considered for a reduced cost-share until it has

<sup>17</sup> *Preliminary Damage Assessment (PDA)* at [<http://www.fema.gov/rebuild/recover/pda.shtml>]. Note: this section of the FEMA web site includes actual PDA's used to determine both declarations and turn-downs.

<sup>18</sup> For additional discussion regarding PDA's, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer* by Francis X. McCarthy, Jan. 23, 2009, p. 8.

<sup>19</sup> Marc Landy and Richard Nathan, *The Role of the Federal Government in Mega disasters: Based from Lessons on Hurricane Katrina*, The Nelson Rockefeller Institute of Government, Feb. 9, 2009, p. 8.

reached per capita damage (that is the amount of eligible disaster damage divided by the population of the state) of \$122.<sup>20</sup> However, recent congressional actions appear to have set aside this threshold for several disaster declarations and indicate the vulnerability of such a threshold not being observed.<sup>21</sup>

The per capita amounts in the existing cost-share waiver provisions arguably demonstrate the scope of an event and serve as at least a partial indicator of the impact on the state as a whole. In reviewing previous large disasters, only three have sustained damage that resulted in a per capita amount above \$1,000. Those three events are the Northridge earthquake (California, \$1,142), Hurricane Andrew (Florida, \$2,628), and Hurricane Katrina (Louisiana, Mississippi, and Alabama, \$6,545). Based on those events, a threshold amount for a catastrophic event in the range of \$2,500 to \$5,000 per capita, it could be argued, would be an initial indicator of great need and evidence that a disaster was catastrophic. Use of this amount would add some precision to the decision-making but would also emphasize the need for rapid assessments and estimates of damage.

Also a fixed and agreed upon amount for a threshold would remove some of the pressure to consider each disaster event as a potentially catastrophic one. The devastation of a large or a smaller disaster may not be different on a personal level, but matters of scope are important in determining new and extraordinary policies.

In addition to a more favorable cost-share, other actions could be taken to address a catastrophic event. One disaster response consultant addressed the possible pieces of a catastrophic disaster annex or tier that would incorporate changes beyond current disaster law and policy.

A catastrophic declaration should also provide other key changes to normal disaster practice, such as the following:

- It would extend key timelines for the delivery of disaster relief programs and disaster unemployment assistance.
- It would make the cost of so called straight-time, force-account labor eligible for reimbursement if it is directly tied to the disaster effort.
- The Annex would provide increased funding caps for Community Disaster Loans (CDLs), which are to assist local governments who have lost tax revenues and cannot cover operational costs.
- It would fund operations related to the housing and care of displaced populations, both within the affected states and in other states where evacuees are housed.
- A catastrophic annex would establish "gap funding" out of the president's Disaster Relief Fund to support the front-funding of relief efforts of other federal departments and agencies when their existing budgets are insufficient to meet immediate disaster-related needs. This provision would last until Congress can approve supplemental funding (institutionalized through legislation regulation, as appropriate).
- It would provide clear authority for the use of Disaster Relief Fund expenditures to provide technical assistance to support long-term local, regional and state recovery planning and coordination; [and]

<sup>20</sup> Federal Emergency Management Agency, Declarations Unit, *Major Disasters -- Cost Share Adjustments -- 1985-2009*, May 6, 2009.

<sup>21</sup> P.L. 111-32, 123 Stat. 1883.

- the passage of a catastrophic annex to the Stafford Act should encourage the application of "common sense" flexibility in the delivery of disaster relief programs (as long as it is not expressly prohibited by law or regulation), and the rapid issuance and/or revision of guidance and policy to meet disaster needs.<sup>22</sup>

## Summary of Congressional Options

In considering the range of possible approaches to improve disaster recovery performance, the choices might be distilled down to several alternatives, several of which may be connected.

- Provide discretion to the President, within the Stafford Act, to invoke authorities (including the block-granting of funds to states and localities) to provide a more rapid and comprehensive recovery.
- Install in law a trigger that, if reached, would set in motion a catastrophic annex or tier of increased and more flexible assistance and also trigger a notification to Congress of potential needs in resources and authorities.
- Place in law a listing of Stafford Act program changes that would take effect for a catastrophic event, including cost-shares for specific programs such as Public Assistance but also including Other Needs Assistance and Hazard Mitigation Assistance.
- Clearly define FEMA's role, and that of other agencies and departments, in long-term recovery planning and work.
- Direct FEMA to create a National Recovery Framework (NRF) similar to the National Response Framework but with an emphasis on long-term recovery program needs (this could help to frame the discretionary authorities for catastrophic events). This framework could also include alternative housing scenarios when large numbers of residents are displaced and define the FEMA-HUD relationship in disaster housing.
- Consider other department or agency authorities that should also be triggered by a catastrophic event, such as the Community Development Block Grant program.
- Continue to have Congress create a legislative recovery package, across the government, to address the unique needs of particular catastrophic events.
- Consider establishing in law a reporting framework so that all disaster spending (including but not limited to the Disaster Relief Fund) is captured and summarized for congressional review, particularly for catastrophic events.

I appreciate the opportunity to appear before you today and would welcome any questions you may have. Thank you for your time and attention.

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<sup>22</sup> Drew Sachs, Vice President, Crisis and Consequence Management, James Lee Witt Associates, EHP Virtual Forum Presentation, Sept. 24, 2008 at [<http://www.emforum.org/vforum/1c080924.htm>].



**MEMORANDUM**

September 25, 2009

**To:** Honorable Eleanor Holmes Norton, Chair, Subcommittee on Economic Development, Public Buildings, and Emergency Management  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Attention: Mike O'Brock

**From:** Francis X. McCarthy, Analyst in Emergency Management Policy  
Government and Finance Division  
Congressional Research Service  
Library of Congress  
(202) 707-9533

**Subject:** **Questions for the Record, July 27, 2009**

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This is in response to your message of September 1, 2009, which requested that I respond to two questions based on the testimony I provided at the July 27, 2009 hearing: "Post-Katrina: What it Takes to Cut the Bureaucracy and Assure a More Rapid Response After a Catastrophic Disaster."

*Q. In your testimony you note that FEMA has existing authority it is not using to pay for large public assistance projects on the basis of estimates. Can you explain this provision and how it would improve the public assistance program especially in a catastrophic disaster?*

A. The Disaster Mitigation Act of 2000, Public Law 106-390, provided FEMA the authority to pay for large projects based on cost estimates rather than the reimbursable system currently employed. This authority appears as a part of Section 406 of the Stafford Act that addresses the repair, restoration, and replacement of damaged facilities.<sup>1</sup>

In the fall of 2002, FEMA convened the "expert panel," as called for in legislation, and conducted workshops to develop the regulations to implement this authority;<sup>2</sup> but regulations have not been promulgated. FEMA has developed cost-estimating formats. In fact they have been working in that area since 1998, but those efforts have not led to rapid awards, cumulative settlements, or significant changes in operating procedures.

<sup>1</sup> 42 U.S.C. 5172. The estimating section is (e) (1) and (2).

<sup>2</sup> Federal Emergency Management Agency, *Public Assistance – Expert Panel on Cost Estimating – Recommendation Report of Federal Advisory Committee*, Oct. 2002, at [<http://www.fema.gov/pdf/government/grant/pa/cefrep.pdf>].

Some observers have speculated that one sticking point in the legislation is that the cost-estimating procedure could still be appealed and the repair and restoration work would then revert to the current system.<sup>3</sup> That could potentially result in a duplicative and administratively expensive and time-consuming process. It could be argued, however, that the same provision allowing appeals provides a reassurance to applicants that their participation in the cost-estimating approach would not sacrifice their rights within the process itself.

Others have speculated that the delay in the implementation of the cost-estimating procedure was because FEMA leadership had not developed mechanisms to ensure accountability, and feared an increase in expenditures, and a speeding up of outlays, if costs were based on estimates and paid out early in the disaster.

While the authority to make payments based on estimates is now nine years old, it has still not been implemented through regulations. A recent report by FEMA on the Public Assistance Pilot Program (a Post-Katrina Emergency Management Reform Act provision which included a limited cost-estimated payments program), suggests, however, the implementation of the cost-estimating authority may be approaching.<sup>4</sup> As the summary of the Pilot Program report notes:

The Grants Based on Estimates procedure allowed FEMA to implement a component of Stafford Act authority on cost estimating methodology that Congress authorized in the Disaster Mitigation Act of 2000 and for which development of regulations is underway.<sup>5</sup>

*Q. Explain how you think a block grant system would work for the public assistance program especially in a catastrophic disaster. What are the pros and cons of a block grant system?*

A. The idea of alternatives to the Public Assistance (PA) program, particularly a block grant approach, has received attention in the past and has recently been the subject of some academic interest. In a recently published article, several observers pointed to rapid payments as a key to improved recovery following a catastrophic event.

Where possible, money appropriated by Congress following a catastrophe should also be provided directly to state and local governments in the form of block grants. This will eliminate the burden and associated time delays placed on federal agencies as they distribute the assistance, and it will give state and local governments flexibility in using the money as they see fit.<sup>6</sup>

Congress may wish to ensure that such block grants have some of the same accountability that is present in a reimbursable program, as the PA program is presently constituted. Arguably, there are block grant programs that do offer flexibility within broad constraints. For example, the Community Development Block Grant (CDBG) program at the Department of Housing and Urban Development (HUD) already plays a significant role in disaster recovery work. The CDBG program has 25 categories of eligible activities that present a broad array of possible projects.

<sup>3</sup> 42 U.S.C. 5172 (e)(2)(C).

<sup>4</sup> P.L. 109-295, Sec. 689j, 120 Stat. 1455.

<sup>5</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency "FEMA Public Assistance Pilot Program – Fiscal Year 2009 Report to Congress," May 20, 2009, p. 11.

<sup>6</sup> Mitchell Moss, Charles Schellhamer, and David A. Berfan, "The Stafford Act and Priorities for Reform," *Journal of Homeland Security and Emergency Management*, vol. 6, Issue 1, 2009, p.14.

A similar block grant could be developed to deal with post-disaster needs with categories of infrastructure repair adjusted to reflect and perhaps broaden the Stafford Act coverage. Two primary questions relating to implementation of block grants would be, first, how to determine the size of the grant and second, at what level it would be awarded. The block grant could all be provided through the state. Or the block grants could be awarded on a community basis. The final option would be to provide block grants on a project-by-project basis.<sup>7</sup>

Currently, for most disasters, FEMA and the state jointly develop a preliminary damage assessment (PDA) to guide decision-making during the declaration process. FEMA's describes the PDA process as "a mechanism used to determine the impact and magnitude of damage caused by a disaster. It summarizes resulting needs of individuals, businesses, public sector, and community as a whole."<sup>8</sup>

PDA's are arrived at by consensus among FEMA regional staff and state and local officials. In some instances, officials from the American Red Cross (ARC) and the Small Business Administration (SBA) or other organizations may also be invited to participate and contribute to the PDA. If the PDA's were to become central in setting the level of block grants, particularly for an initial payment, it may be appropriate to look at the PDA process to determine whether and how it should be improved.<sup>9</sup>

The essential argument in favor of the block grant approach is that it could expedite financial assistance to the state and the local governments and non-profit organizations that receive grants from their states. Implicit in such a payment method would be a great amount of flexibility and empowerment for the state to establish its own priorities and be accountable for the tempo and quality of the recovery process and the projects chosen.

The arguments against a block grant center on the difficulty in establishing an accurate block grant amount. This problem may create hesitation similar to the wariness applicants may feel with regard to cost-estimated payments. It is important to consider that while grants for assistance to individuals and hazard mitigation grants for community projects are capped, there is no dollar limit on the amount that may be spent for eligible PA repair, rebuilding and replacement projects. Another argument against the block grant concept is that without FEMA involvement in the project approval process, expenditures could be made that do not conform to Stafford Act provisions, and action might subsequently be needed to reclaim misspent funds.

In summary, the block grant is appealing for speed, clarity and autonomy, that would likely result in an amount certain; by comparison, the current PA total amounts are not capped and can change and accrue as the process is completed. One option to address the concerns of the applicants and the federal government might be to use the initial block grant as an incremental "down payment" on public disaster costs. Following the initial block grant, the regular PA Section 406 process could then be used to assure eligibility and to complete the funding of any projects beyond the initial block grant amount.

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<sup>7</sup> While the majority of CDBG funding is distributed directly to entitlement communities and the remainder through the states, all FEMA funding for the 406 rebuilding program flows through the state to individual projects.

<sup>8</sup> *Preliminary Damage Assessment (PDA)* at [<http://www.fema.gov/rebuild/recover/pda.shtml>]. Note: this section of the FEMA web site includes actual PDAs used to determine both declarations and turn-downs.

<sup>9</sup> For additional discussion regarding PDAs, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer* by Francis X. McCarthy, Jan. 23, 2009, p. 8.

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A further point for discussion is how cost-shares would or would not be determined when block grants are applied. In the majority of events, the cost-share could be at its standard level for PA projects of 75% federal and 25% state and local. This consideration might depend on the size of the event and be addressed separately through current administrative authority or separate Congressional action.

The current FEMA approach in regulation adjusts the cost-share for PA projects (to 90% federal and 10% state and local) based on the per capita damage amount to a state due to a disaster.<sup>10</sup> However, Congress has also exercised its authority in recent years to adjust the cost-share for both the 406 program and other disaster relief programs.<sup>11</sup> An additional consideration would be to remove the cost-share while continuing to provide a similar percentage of estimated repair costs (between 75% and 90%) as the federal block grant. Such a change would necessitate amending the Robert T. Stafford Disaster Relief and Emergency Assistance Act.<sup>12</sup>

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<sup>10</sup> 44 CFR, 206.47.

<sup>11</sup> P.L. 110-28, Sec.4501, 121 Stat. 156. In this provision, Congress removed the cost-share for PA programs and for the Other Needs Assistance part of the Section 408 Individuals and Households program

<sup>12</sup> P.L. 93-288, 42 U.S.C. 5121.

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Testimony of Mitchell L. Moss, Professor of Urban Policy and Planning

Robert F. Wagner Graduate School of Public Administration  
New York University

Subcommittee on Economic Development, Public Buildings and  
Emergency Management

Committee on Transportation and Infrastructure  
U.S. House of Representatives

July 27, 2009

Madame Chair and Members of the Committee:

My name is Mitchell Moss and I am pleased to be here this afternoon to speak before your subcommittee. I have been on the faculty of New York University for more than 35 years and have done research on the role of federal, state and local governments in planning for and responding to disasters and catastrophes.

Today, I would like to address two points: the changing character of catastrophes in the 21<sup>st</sup> century and the role of the federal government in providing assistance to assure the recovery from large-scale disasters and catastrophes.

The United States faces substantially different risks today than those we faced when the Stafford Act was signed into law. Globalization links our nation to events and activities thousands of miles away, so that a major financial collapse in Asia could disrupt our own financial markets or a major storm surge overseas could disrupt shipping patterns and the supply of products and goods that we have come to rely on.

Moreover, advances in information technologies have made us much more dependent on advanced computer-based systems, thereby increasing our vulnerability to breakdowns in our energy systems, transportation infrastructure, and communication systems. As more of our public and private life is organized around integrated digital information systems, a small breakdown in one component could have serious and widespread consequences on the entire nation.

Simply put, we need to recognize the changing scale of catastrophes. While we have much experience with natural disasters that generate massive damage on a city or community, we must increasingly consider the catastrophic disasters that threaten our nation's economy and capacity to function. In such cases, the role of the federal government must go far beyond the traditional concept of "supplemental assistance" since the very survival of the nation is at stake. Clearly, we should recognize the increasing possibility of

“catastrophic disasters” and the need for the federal government to take a direct role in providing aid to recover from such events.

The Stafford Act – the federal law governing FEMA and federal disaster response – recognizes only two levels of disaster, “Emergencies,” and “Major Disasters.” “Emergencies” are small-scale events, where federal assistance is required but total federal assistance is capped at \$5 million. “Major Disasters” is a catchall for any larger event, meaning the provisions of law and the restrictions on FEMA’s ability to act within the law are the same for a blizzard in Buffalo declared to be a “major disaster” as they are for a devastating hurricane, earthquake, or terrorist attack.

Following Hurricane Katrina, Congress passed the Post Katrina Emergency Management Reform Act of 2006, recognizing the need for an additional level of response and creating a definition for a “Catastrophic Incident,” that, when declared, will bring additional resources to bare, including “Regional Strike Teams” and a “Surge Capacity Force.” This will help ensure that FEMA has enough resources to adequately respond to a catastrophic event.

Just last year, one of the largest barriers in responding to Hurricane Katrina was eliminated – the designation of an “Incident of National Significance.” A study conducted by the Law School at the University of California, Berkeley. Found that the federal government’s response to Hurricane Katrina was delayed for a full day because the Governor of Louisiana requested support under the “major disaster” provisions of the Stafford Act, while federal agencies were waiting for the declaration of an “Incident of National Significance” by the Secretary of Homeland Security under the National Response Plan. This inherent conflict was removed when the National Response Framework replaced the National Response Plan last year, and the concept of an “Incident of National Significance” was eliminated, thereby allowing FEMA to quickly respond to a catastrophic disaster.

However, despite these developments to increase FEMA's reaction and capacity in the face of a catastrophic event, FEMA's response will continue to be governed by the provisions of a "Major Disaster" under the Stafford Act, suggesting that the distribution of assistance will continue to be hampered. It is essential to consider amending the Stafford Act and to create a new response level for "Catastrophic Incidents," based on the definition of such in the Post-Katrina Emergency Management Reform Act of 2006, and upon the declaration of a "Catastrophic Incident", provide mechanisms within the Stafford Act to expedite assistance to local governments, utility companies, and residents in a cohesive and coherent way..

Following a serious catastrophe, the process of recovery must start by assuring that funds are available for local governments to return to work. Debris and trash must be removed. Law and order must be restored. Buildings need to be inspected to determine which are safe. Plans must be approved to rebuild what was lost. The Stafford Act allows FEMA to cover the overtime costs of local government employees involved in disaster recovery work, but when a local government discovers that its tax base has destroyed due to a catastrophe, it cannot pay employee's regular salaries, let alone overtime. After Hurricane Katrina, New Orleans was forced to lay off 3,000 workers due to a lack of money. Provisions must be included within the Stafford Act to allow FEMA to fund both the salaries and overtime of state and local workers following a catastrophe for an appropriate amount of time.

To make up for limitations within the Stafford Act, Congress historically has appropriated billions of dollars and established special programs to provide additional assistance following a catastrophe. After the 1994 Northridge (Los Angeles) Earthquake, Congress appropriated \$11 billion. \$40 billion was appropriated in assistance in the recovery from the September 11 attack, and \$110 billion after Hurricanes Katrina and Rita.

With the bulk of immediate rescue and recovery work, along with long-term planning and rebuilding resting in the hands of state and local governments, a system that provides federal assistance to state and local governments as quickly as possible is paramount.

Where possible, money appropriated by Congress following a catastrophe should also be provided directly to state and local governments in the form of block grants. This will eliminate the burden and associated time delays placed on federal agencies as they distribute the assistance, and it will provide flexibility for state and local entities to deploy the money as they see fit.

A general rider within the Stafford Act for catastrophic events, giving the President, in consultation with Congress, the authority to waive Stafford Act provisions and regulations following a catastrophe represents another effective means of providing regulatory flexibility following a catastrophe. To prevent an open ended mandate, the rider could also require the President, after an initial damage assessment, and in coordination with Congress, to set a cap on the amount of immediate and long term recovery assistance that will be provided for the catastrophe.

The resumption of utilities is important to both the short term and long term recovery following a catastrophe. Lives can be saved and suffering minimized with functioning utilities. Yet, the Stafford Act only covers public and non-profit utilities and does not recognize the presence of de-regulated, for profit utilities.

For a community to recover from a catastrophe, money is essential and accelerated action is needed to start the process of recovery. The Stafford Act is based on the assumption that assistance to business and individuals should first come from insurance. It is essential for businesses and individuals to have insurance, and for the government to encourage insurance coverage in order to minimize the amount of taxpayer money spent following a catastrophic disaster.

One difficulty with this approach is that, following a catastrophe, important documents required to document ownership and proof of insurance are often destroyed or lost, making it difficult for people to apply and receive government assistance in a timely fashion. As Don Wilson, president of the national Association of Small Business Development Centers explained following Katrina, "Even if your CPA has copies of your records, their records may have been destroyed."

Even more troubling, insurance companies have moved to minimize losses, leaving victims in difficult financial positions. In a bid to avoid payouts to those who had hurricane – but not flood – coverage following Katrina, insurance companies argued that the damage in New Orleans was caused by flooding, not the hurricane, and that the devastation along the Gulf Coast was caused by surge flooding, not hurricane winds. Numerous Katrina related lawsuits against insurance companies are making their way through the courts, and in time judgments will be levied and settlements reached, resulting in payouts – but such comes years after people have made the decision to rebuild or leave.

Even when insurance companies act to make payments, the devastation that follows a catastrophe can overwhelm the company and result in multi-month delays for insurance payments. Nine long months after Hurricane Katrina hit Louisiana, the insurance modeling firm ISO estimated that out of \$24.3 billion in insured losses in Louisiana, only half that amount – \$12.5 billion – had been paid out.

The Stafford Act authorizes assistance to flow to qualified households to cover non-insured losses following a disaster – which is capped at \$30,000 per household and further subdivided with caps on repairs, temporary housing assistance, and other items. Given the problems inherent in quickly receiving insurance claims following a catastrophic disaster, this restriction should be amended so that following a catastrophe this aid can flow to qualified homeowners and renters regardless of insurance coverage. This will

immediately put money in people's pockets, encouraging them to stay put and rebuild their devastated home and community. This assistance could later be reimbursed to the government when insurance coverage is received, or paid only to those who pledge to remain in their community.

Finally, the Stafford Act should be amended to recognize the potential for 21<sup>st</sup> century catastrophes that I mentioned at the outset of this testimony. As currently written, the Stafford Act excludes chemical, biological, and nuclear attacks and accidents from the list of disasters covered by the definition of a "Major Disaster." While the President has the authority under other acts to respond to these disasters, each has the potential to devastate local economies, wreck havoc on infrastructure, and generate the need for temporary housing. Recovering from such attacks or accidents could require extensive, long-term investment, which the assistance programs of the Stafford Act are designed to facilitate – but do not cover because a major disaster is defined to exclude these types of events. Such events, however, would be covered if the definition for a "Catastrophic Incident" based on the Post-Katrina Emergency Management Reform Act of 2006 is included in the Stafford Act.