

GAO

Report to the Committee on
Environment and Public Works,
U.S. Senate

August 2003

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area



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Highlights

Highlights of [GAO-03-926](#), a report to the Committee on Environment and Public Works, U.S. Senate

Why GAO Did This Study

The terrorist attacks on New York City created the most costly disaster in U.S. history. In response, the President pledged at least \$20 billion in aid to the city. Approximately \$7.4 billion of this aid is being provided through the Federal Emergency Management Agency's (FEMA) public assistance program, which provides grants to state and local governments to respond to and recover from disasters. The Senate Committee on the Environment and Public Works requested that GAO determine (1) what activities FEMA supported in the New York City area through its public assistance program after the terrorist attacks; (2) how the federal government's response to this terrorist event differed from FEMA's traditional approach to providing public assistance in past disasters; and (3) what implications FEMA's public assistance approach in the New York City area may have on the delivery of public assistance should other major terrorist attacks occur in the future.

DISASTER ASSISTANCE

Information on FEMA's Post 9/11 Public Assistance to the New York City Area

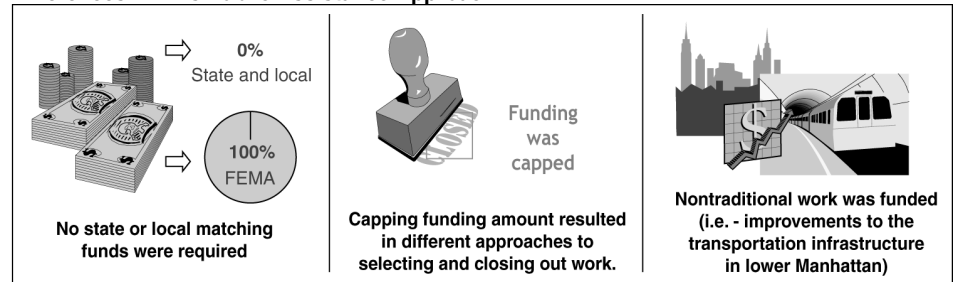
What GAO Found

FEMA has supported many activities through its \$7.4 billion in public assistance-related funding to the New York City area. Activities funded include grants to state and local governments for emergency response, such as debris removal, and permanent work, such as the repair of disaster-damaged public facilities. FEMA also provided public assistance-related funding specifically directed by Congress that would not otherwise have been eligible for assistance (e.g. reimbursing costs of instructional time for students who lost school time after the terrorist attacks). The major uses for this funding are as follows:

- \$1.7 billion for debris removal operations and insurance.
- \$2.8 billion to repair and upgrade the transportation infrastructure of Lower Manhattan.
- \$0.6 billion to the New York City Police and Fire Departments for such purposes as emergency efforts and replacing destroyed vehicles.
- \$0.3 billion to miscellaneous city agencies for a wide range of activities (e.g., instructional time for students and building cleaning).
- \$0.7 billion for non-New York City agencies for many purposes (e.g. office relocations and repair of damaged buildings).
- \$1.2 billion available on June 30, 2003, for public assistance-related reimbursements to New York City and state (work to be decided).

The provision of public assistance to the New York City area differed in three significant ways from FEMA's traditional approach.

Differences in This Public Assistance Approach



Source: NOVA Development Corporation and GAO.

FEMA and New York City officials agreed that FEMA's public assistance approach in the New York City area creates uncertainties regarding the delivery of public assistance in the event of another major terrorist event. They differed on the effectiveness of using the public assistance program as currently authorized as the vehicle for federal disaster response to a future major terrorist event. Key New York City officials said that the program needed major revisions, while FEMA officials said it worked well along with the congressional prerogative to provide additional assistance. Nevertheless, FEMA has begun to consider ways to redesign the program to make it better able to address all types and sizes of disasters, including terrorist attacks.

www.gao.gov/cgi-bin/getrpt?GAO-03-926.

To view the full product, including the scope and methodology, click on the link above. For more information, contact JayEtta Z. Hecker at (202) 512-2834 or heckerj@gao.gov.

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Abbreviations

DHS	Department of Homeland Security
DOT	Department of Transportation
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FTA	Federal Transit Agency
NEMIS	National Emergency Management Information System
NYC	New York City
OMB	Office of Management and Budget
PATH	Port Authority of New York and New Jersey

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United States General Accounting Office
Washington, DC 20548

August 29, 2003

The Honorable James M. Inhofe
Chairman
The Honorable James M. Jeffords
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable George V. Voinovich
The Honorable Hillary Rodham Clinton
United States Senate

The September 11, 2001, terrorist acts were the most destructive and costly terrorist events—in terms of lives lost, physical damage, emotional trauma, and economic hardship—that this country has ever experienced. In New York City (NYC), the attacks killed almost 3,000 people, injured thousands more, and leveled 16 acres of Lower Manhattan, including the World Trade Center Towers and other buildings on or around the World Trade Center site. The attacks also disabled major electrical and communications facilities and the transportation infrastructure in the Lower Manhattan area and left many residents temporarily homeless and thousands unemployed.

To help NYC respond to and recover physically, emotionally, and economically from the damages it incurred, the President pledged and Congress appropriated over \$20 billion in federal assistance. Today, less than 2 years after the terrorist attacks, the rubble that was the World Trade Center is gone and rebuilding efforts have started. The Federal Emergency Management Agency (FEMA) led the federal response.¹ Total FEMA funding for several programs it administered to help NYC area accounts for about \$8.8 billion of the \$20 billion in federal assistance, making this the largest disaster response in the agency's history. In only

¹In March 2003, FEMA and its approximately 2,500 staff became part of the Department of Homeland Security (DHS). Most of FEMA—including its disaster assistance efforts—is now part of the Department's Emergency Preparedness and Response Directorate; however, it has retained its name and individual identity within the department. We therefore refer to FEMA in this report.

six other disasters had FEMA provided more than \$1 billion in assistance, the largest of them being the Northridge earthquake in California in 1994.²

FEMA's public assistance program was the largest federal disaster effort to the NYC area, totaling \$7.4 billion.³ This program is designed to provide federal disaster grants to eligible state and local government agencies and specific types of private nonprofit organizations. It funds eligible "emergency work," such as responses by local emergency personnel and debris removal, and "permanent work," such as the repair, replacement, or restoration of disaster-damaged facilities, as authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act.⁴ FEMA is expected to provide about \$7.4 billion to the NYC area through the public assistance program and public assistance-related spending directed by Congress, making FEMA's public assistance funding the largest single federal disaster aid effort to the NYC area.⁵

You asked us to review several aspects of the federal government's response and recovery efforts. Since FEMA's public assistance program was the largest federal assistance program to help the New York City area, we agreed to identify what activities were funded and the possible implications of this public assistance response to any major terrorist events that may occur in the future. Specifically, we agreed to provide information on (1) what activities FEMA supported in the NYC area with its public assistance program after the terrorist attacks, (2) how the

²The six other disasters for which FEMA spent more than \$1 billion were caused by earthquakes, hurricanes, or floods. These six disasters are: \$6.99 billion for the Northridge Earthquake, Calif. (1994); \$2.25 billion for Hurricane Georges, Ala., Fla., La., Miss., P.R., V.I. (1998); \$1.84 billion for Hurricane Andrew, Fla., La. (1992); \$1.13 billion for Hurricane Hugo, N.C., S.C., P.R., V.I. (1989); \$1.14 billion for Midwest Floods, 9 Midwestern states (1993); and \$1.08 billion for Hurricane Floyd, 13 Eastern Seaboard states (1999).

³The term "public assistance" is also used for unrelated government programs administered by other agencies. For example, in the Department of Health and Human Services, public assistance refers to benefits for low-income individuals. For this report, public assistance refers to the FEMA program.

⁴Pub. L. No. 93-288, 88 Stat. 143 (1974), as amended. The Stafford Act authorized the public assistance program that gives FEMA authority to provide assistance, defines basic program criteria and eligibility, and authorizes FEMA to publish regulations.

⁵In the Consolidated Appropriations Resolution for fiscal year 2003, Congress authorized the state and NYC to use funds appropriated to FEMA for disaster relief for costs associated with the World Trade Center attacks that are not reimbursable under the Stafford Act. We refer to these funds as public assistance-related because they are used for projects in the public domain that are not related to hazard mitigation.

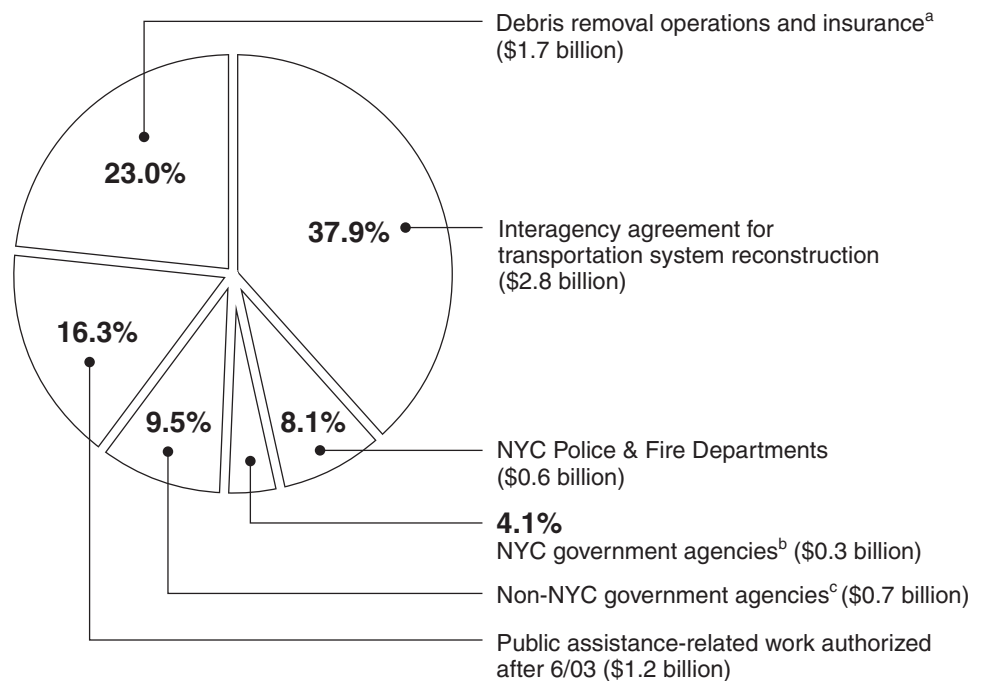
federal government's response to this terrorist event differed from FEMA's traditional approach to funding public assistance in past disasters, and (3) what implications FEMA's public assistance approach in the NYC area may have on the delivery of public assistance should other major terrorist attacks occur in the future. We also agreed to provide a separate report on the overall federal disaster assistance given to help the NYC respond to and recover from the terrorist attacks. That report will be provided to you later this year.

To address our objectives, we reviewed disaster-related project documentation, and we analyzed management information system data on the public assistance FEMA provided and its cost. We reviewed approaches FEMA traditionally used to fund major natural disasters and the staffing and coordination processes it used to deliver the assistance and compared them to approaches used in the aftermath of the World Trade Center attacks. Using a structured data collection and interview instrument, we reviewed decisions FEMA made on funding applications for 10 projects that were nontraditional when compared to the types of work funded in the aftermath of previous major natural disasters. We also interviewed FEMA, NYC, and nonprofit organization officials about the assistance provided and the challenges FEMA faced in delivering public assistance. We asked these officials their views on whether differences in the approach to delivery of public assistance in the NYC area demonstrated a need for a new approach to providing public assistance should another major terrorist event occur in the future. Our scope and methodology are discussed in greater detail in appendix I.

Results in Brief

FEMA supported a wide range of activities for the NYC area with its public assistance program. The approximately \$7.4 billion in funding was distributed to major categories of recipients. (See fig. 1.)

Figure 1: Distribution of \$7.4 Billion in Public Assistance and Public Assistance-Related Funding



Source: GAO analysis of FEMA data.

Note: \$0.08 million in grant administration costs are not reflected in the graph but are part of the total public assistance-related spending. Percentages do not total 100 percent because these costs are not included and due to rounding.

^a Includes the NYC Departments of Sanitation and Design and Construction, and the U.S. Army Corps of Engineers.

^b Excludes the NYC Departments of Police, Fire, Sanitation, and Design and Construction. Reimbursements to these four departments are shown under Debris Removal Operations & Insurance and NYC Police and Fire Departments.

^c Includes New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey.

Debris removal operations (costing about \$0.7 billion) involved removing, screening, and disposing of 1.6 million tons of debris. The establishment of an insurance company to cover possible claims resulting from debris removal operations is projected to cost about \$1 billion. The largest

individual amount of FEMA's public assistance funds—\$2.8 billion or 38 percent—will be used jointly with additional funds from the U.S. Department of Transportation to repair and upgrade the transportation infrastructure—including streets, subway systems, and commuter railways—damaged in the disaster. Reimbursements for NYC Police and Fire Departments' emergency efforts, pensions, and vehicle and equipment losses amounted to \$0.6 billion. The \$0.3 billion in reimbursements to NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire were for various activities such as exterior building cleaning, rescheduling elections, and DNA testing to identify victims. Another \$0.7 billion provided to non-NYC government agencies—such as New York state agencies, nonprofit organizations, and the Port Authority of New York and New Jersey—was to reimburse these agencies for, among other things, relocating offices and supporting some transportation projects that were not covered in transportation efforts listed above. Lastly, \$1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. To receive the \$1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred, however Congress authorized a much wider scope of costs that could be reimbursed than are authorized under the Stafford Act. As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of fire fighters and police officers killed in the line of duty in the terrorist attacks. A reimbursement had been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks.

While FEMA followed traditional processes for considering most applications, public assistance provided to the NYC area after the terrorist attacks differed significantly in three major ways from FEMA's traditional approach. First, FEMA did not require state or local governments to provide a share of federally provided disaster response and recovery costs. Typically, FEMA's public assistance program shares disaster costs burdens, with FEMA providing 75 percent of the costs—the minimum provided for under the Stafford Act—and affected state and local governments paying the remaining share. At the direction of the President,

FEMA provided 100 percent of all public assistance costs in the NYC area. This was the first time an entire FEMA public assistance operation was 100 percent federally funded. The second distinct aspect of FEMA's public assistance to New York was that there was a funding target that became a cap on the level of the assistance. As a result, the public assistance program did not follow customary project selection and close out processes. Consistent with the President's and Congress' commitment of approximately \$20 billion in disaster assistance to New York, FEMA operated with a set spending level appropriated by Congress that it did not exceed for all public assistance-related work for the NYC area. In contrast, in prior disasters all applications for public assistance that FEMA determined to be eligible under the provisions of the Stafford Act were funded. Also, FEMA closed out public assistance funding for the World Trade Center disaster in June 2003, releasing money that had not been spent to NYC and state officials to use at their discretion for disaster-related expenditures. A FEMA official said that no prior disaster had been closed out in this manner before work had been completed. Third, the size and type of work funded was quite different from the public assistance provided after prior major natural disasters. FEMA determined some non-traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. For example, public assistance has traditionally been limited to coverage of disaster-related losses and damages—restoring, but not improving, existing infrastructure. However, FEMA officials said that they broadly interpreted the Stafford Act to allow funding that will not only to rebuild transportation systems that were damaged from the terrorist attacks, but may also improve the overall transportation system in Lower Manhattan. For example, within the FEMA/Department of Transportation interagency agreement, work has been proposed to construct a new transit station to replace the existing but undamaged Fulton Street station to improve the overall flow of commuter traffic. Congress also authorized FEMA to fund other disaster-related work, some of which would not have been eligible for assistance under the Stafford Act. As a result of the June 2003 close out of the public assistance program, \$1.2 billion in funds that had not been spent for traditional public assistance work was made available to the city and state of New York for broader purposes authorized by Congress. For example, NYC plans to use FEMA funds to cover some of the costs of heightened security after the attacks.

These distinct aspects of FEMA's public assistance response in the NYC area compared to public assistance responses delivered after previous major disasters create uncertainties about the delivery of public assistance should there be another catastrophic terrorist attack in the future. FEMA

and NYC officials who managed the disaster recovery efforts agreed that the decisions made in New York would likely be considered if terrorists struck again, and that it is uncertain whether an approach similar to the one that evolved in NYC would be followed. Furthermore, NYC and FEMA officials differed on how well the public assistance program, as authorized by the Stafford Act, serves as the federal government's vehicle for delivering this type of assistance. The NYC officials we interviewed did not think that the current program fully addressed the needs of the city. They said it should not be used to respond to major terrorist events unless it is significantly amended to address what they believe are unique challenges in aligning disaster assistance with the consequences of a terrorist incident; these concerns include long-term environmental liabilities and the need for heightened security efforts in the immediate aftermath of a terrorist attack. In contrast, FEMA officials said that they were generally satisfied that the Stafford Act provides the necessary flexibility for responding to terrorist attacks since Congress may authorize additional assistance to disaster-affected areas to address specific and unique needs, as it did for the NYC area. As we were completing our audit work, FEMA established a working group to look at ways to redesign the public assistance program to meet community needs for all types and sizes of disasters in the future, including those resulting from terrorist events. This group expects to provide an initial concept for revising the program by September 30, 2003.

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

Background

Under the Stafford Act, when a major natural catastrophe, fire, flood, or explosion occurs that is beyond the capabilities of a state and local government response, the President may declare that a major disaster exists. This declaration activates the federal response plan for the delivery of federal disaster assistance. The response plan is an agreement signed by 27 federal departments and agencies, including the American Red Cross. Under the Stafford Act, FEMA is responsible for coordinating both the federal and private response efforts. President Jimmy Carter established FEMA in 1978 to consolidate and coordinate emergency management

functions in one location, addressing concerns about the lack of a coordinated federal approach to disaster relief. FEMA most recently redesigned its public assistance program in 1998. The federal assistance coordinated by FEMA is designed to supplement the efforts and available resources of state and local governments and voluntary relief organizations.⁶

While FEMA had the lead in coordinating the federal response to the attacks on NYC, other federal agencies, including the Department of Transportation (DOT), the Small Business Administration (SBA), the U.S. Army Corps of Engineers, and the Environmental Protection Agency (EPA) also provided significant assistance. The disaster declaration from the President triggers not only a role for FEMA as coordinator of the federal emergency response plan, but also a role in delivering assistance through several programs it administers. These programs include individual assistance to victims affected by a disaster and hazard mitigation funds to state and local governments to take steps to prevent future disasters. However, FEMA's public assistance program is typically its largest disaster assistance effort. It is designed to provide grants to eligible state and local government agencies and specific types of private nonprofit organizations that provide services of a governmental nature, such as utilities, fire departments, emergency and medical facilities, and educational institutions, to help cover costs of emergency response efforts and work associated with recovering from the disaster. According to FEMA regulations, work eligible for public assistance must be

- to repair damage that occurred as a result of a declared event,
- located within an area declared by the President as a disaster area, and
- the legal responsibility of an eligible applicant.

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs of a disaster with state and local governments paying for the remaining portion. The assistance is to be provided to repair, restore, reconstruct, or replace eligible facilities. The

⁶In a December 2002 report, we discussed charitable organizations' contribution to the disaster relief efforts in the NYC area and the need for a greater FEMA role in facilitating collaboration among these organizations. U.S. General Accounting Office, *September 11: More Effective Collaboration Could Enhance Charitable Organizations' Contributions in Disasters*, [GAO-03-259](#) (Washington, D.C.: Dec. 19, 2002).

amount of public assistance provided is reduced by, among other considerations, insurance proceeds and salvage value. Because the assistance provided by the program is limited by these factors, as well as certain eligibility criteria, the amount of public assistance funds FEMA provides in a disaster does not equal the total financial impact of a disaster on an affected community or area.

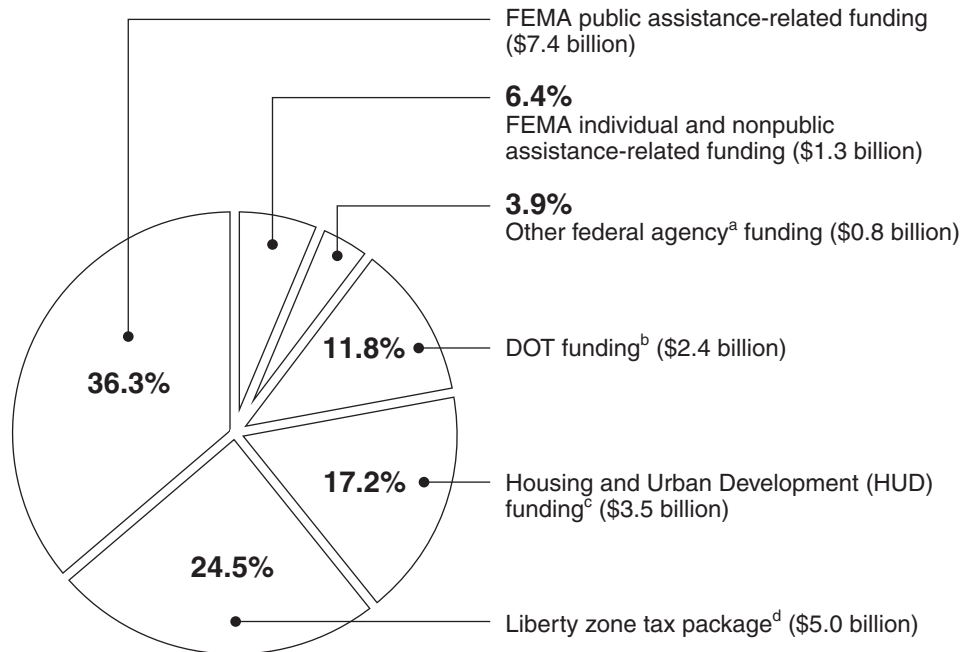
The Stafford Act has been amended several times since its enactment in 1974, and FEMA has taken steps over the years to redesign its public assistance program with internal policy changes to make eligibility criteria for public assistance clearer, and more consistent and accurate. The Senate report on the Disaster Mitigation Act of 1999 noted that the congressional interest in reducing the federal cost of disaster assistance would be achieved by, among other things, reducing the types of facilities and activities that may receive assistance in the event of a disaster.⁷ In August 2001, we reported that in a period of about 2 years since FEMA had completed a 1998 redesign of the public assistance program, it had developed or revised public assistance program policies in 35 areas or topics in part to make clearer eligibility criteria and improve the consistency and accuracy of eligibility determinations for individual projects.⁸

FEMA's public assistance program is the largest portion of the federal assistance provided to New York in the aftermath of the World Trade Center attacks. Of a total of over \$20 billion in federal assistance approved for this disaster, either in the form of direct assistance or in the form of tax benefits, about \$7.4 billion was funded through FEMA's public assistance program or through public assistance-related spending authorized by Congress through appropriations to FEMA. Figure 2 shows that FEMA's public assistance program is providing the largest single portion of the federal contribution to the NYC area's disaster recovery effort.

⁷ Senate Report 106-295.

⁸ U.S. General Accounting Office, *Disaster Assistance: Improvement Needed in Disaster Declaration Criteria and Eligibility Assurance Procedures*, [GAO-01-837](#) (Washington, D.C.: Aug. 31, 2001).

Figure 2: Public Assistance Funding Provides the Largest Federal Contribution to the NYC Area's Recovery



Source: GAO analysis of FEMA and Congressional Budget Office data.

Note: Percentages do not total 100 percent due to rounding.

^a Includes the Department of Health and Human Services, Department of Labor, and SBA.

^b DOT funds are to assist in rebuilding and improving the transportation infrastructure.

^c HUD funds are to be used for a variety of purposes, including assistance to businesses and individuals, infrastructure restoration, and economic recovery.

^d Estimate by the Joint Congressional Committee on Taxation in March 2002 of the cost of the Liberty Zone tax package to the federal government. The cost of the tax package in lost revenues to the federal government will not be precisely determined because data is not available. The package contains provisions designed to spur economic revitalization in Lower Manhattan.

FEMA may assign work or enter into agreements with other federal agencies and the American Red Cross to handle aspects of public assistance within their areas of expertise. These agreements are called mission assignments and interagency agreements. Mission assignments were widely used in the first few months after the World Trade Center disaster to provide assistance for short-term projects. Interagency agreements—used for long-term projects—are similar to mission assignments in that they are funding agreements between agencies to provide goods and services on a reimbursable basis.

In March 2003, FEMA and its responsibilities were placed entirely into DHS in the largest reorganization of the federal government since the formation of the Department of Defense. The Emergency Preparedness and Response Directorate within DHS has responsibility for the public assistance program and continues to be referred to as FEMA, which we do in this report.⁹

\$7.4 Billion in Public Assistance-Related Funding Provided for Broad Range of Activities

The approximately \$7.4 billion of public assistance and public assistance-related work funded through FEMA is providing a broad range of aid to the NYC area. For example, public assistance-related funding was, or will be, provided to reimburse NYC authorities for immediate response and recovery actions—such as debris removal operations and emergency efforts by the NYC Departments of Design and Construction, Sanitation, Fire, and Police—and for long-term actions to repair and upgrade damaged facilities and transportation systems. Because of the unique nature of the NYC disaster, existing FEMA data system categories for tracking and reporting public assistance do not provide for some of the large public assistance-related efforts.¹⁰ Based on our analysis, we categorize the public assistance and related funding for NYC into six general areas:

⁹FEMA's Office of National Preparedness, which is responsible for terrorism preparedness and response, was placed in the Border and Transportation Security Directorate. This placement was designed to achieve a measure of consolidation with preparedness functions from other agencies. However, as we reported in our Performance and Accountability Series in January, 2003, other disaster preparedness and response efforts will be in the Emergency Preparedness and Response Directorate and close coordination will be needed among these groups to ensure that problems of duplication, overlap, and confusion that occurred in the past are not replicated. U.S. General Accounting Office, *Major Management Challenges and Program Risks: Federal Emergency Management Agency*, [GAO-03-113](#) (Washington, D.C.: January 2003).

¹⁰FEMA's categories for public assistance work are (1) debris removal, (2) emergency protective measures, (3) road and bridge systems, (4) water control facilities, (5) public buildings and equipment, (6) public utilities, and (7) recreation and other. However, some large public assistance efforts funded in NYC did not fit well within the standard categories. For example, a \$64.6 million application to cover increased NYC contributions to the retirement system due to the line-of-duty deaths of police and fire fighters in the terrorist attacks was classified as an emergency protective measure, and a FEMA official noted that the "recreation and other" category was used to classify reimbursements that did not fit in other categories. For example, funding to provide additional school time for students who lost instructional time as a result of the terrorist attacks was classified as "recreational or other." For this reason, we did not use the FEMA categories for our analysis.

-
- debris removal operations and insurance;
 - reconstruction of the Lower Manhattan transportation infrastructure under an interagency agreement with DOT;
 - reimbursement of police and fire department costs;
 - reimbursement of expenses incurred by NYC agencies other than the Departments of Design and Construction, Sanitation, Police and Fire for such activities as DNA and forensic testing to identify victims and exterior building cleaning;
 - reimbursement of expenses to agencies that are not part of the NYC government (i.e., New York state agencies, the Port Authority, and private non profits) for disaster-related costs such as transportation work not covered under the interagency agreement discussed above; and
 - reimbursement of public assistance-related expenses authorized by Congress that would not otherwise have been eligible for assistance (i.e. heightened security after the terrorist attacks) from funds made available after the June 30, 2003, close out of the traditional public assistance program.

Refer to figure 1 on page 4 for a graphic illustration of how public assistance funding to the NYC area was or will be distributed within these six categories.

Each category of public assistance funding and some of the major efforts funded in each of them, are described in the following sections.

Debris Removal Operations and Insurance

FEMA funded about \$1.7 billion in work related to debris removal operations and to reimburse the NYC Departments of Design and Construction and Sanitation for debris removal expenses. The most significant and costly activities in this category were removing and disposing of the destroyed World Trade Center buildings, screening debris for victims' remains and personal effects, and establishing an insurance company for possible claims resulting from debris removal operations.

Workers spent an estimated 3.1 million hours over 9 months to remove about 1.6 million tons of debris from the World Trade Center site. Debris from the collapse of the World Trade Center towers extended 7 stories into the earth and more than 11 stories high at Ground Zero. Thick dust

covered streets, buildings, and vehicles for blocks around the site. FEMA provided \$620.9 million for removing the debris from the World Trade Center site and barging it to a landfill in Staten Island, N.Y., for screening, sorting, and disposal. Original estimates projected that the recovery effort and cleanup would take 2 years and \$7 billion. Figure 3 shows debris removal and barging operations.

Figure 3: Public Assistance-Funded Debris Removal Operations



Source: FEMA Photo Library.

Debris removal contractors survey the piles of debris, estimated at 1.6 million tons, at the site where the World Trade Center towers once stood.



Source: FEMA Photo Library.

FEMA-funded debris removal efforts are in progress at the World Trade Center about a month after the terrorist attacks.



Source: FEMA Photo Library.

Two 500-ton floating cranes continue debris removal operations, loading wreckage onto barges to be towed to a city landfill in Staten Island, N.Y., for screening, inspection, and disposal.

The need to sort and screen the debris to recover the remains and personal effects of victims and criminal evidence made the debris removal operation even more difficult. FEMA provided \$72 million to the U.S. Army

Corps of Engineers to manage the debris inspection at the landfill. The sorting activities were an intense, meticulous effort to recover remains and personal belongings of victims to return them to their families and to gather criminal evidence related to the terrorist attacks. The Corps of Engineers provided labor, heavy equipment, conveyer belts, and screening equipment. The Corps also provided temporary buildings for storage and to shelter workers, worker decontamination facilities, and food service facilities. Figure 4 shows debris screening and inspection operations at the landfill.

Figure 4: Debris Screening and Inspection Operations



Source: FEMA News Photo.

Two views of inspectors at work at the city landfill in Staten Island, N.Y., screening through mixed debris for victims' remains and personal effects and criminal evidence.



Source: U.S. Army Corps of Engineers.

In addition to the costs of debris removal and disposal, FEMA set aside \$1 billion to establish a debris removal insurance company to cover contractors and NYC for liability claims resulting from debris removal operations.¹¹ According to city officials, private contractors came to Ground Zero to do search and rescue, recovery, and debris removal work

¹¹FEMA was authorized to do so by the Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7. \$1 billion is a projected cost, but actual costs will be unknown for many years.

in the immediate aftermath of the terrorist attacks before entering into formal contract agreements with NYC. The outstanding issue that kept the contractors and NYC from reaching a final agreement on compensation for the work done was liability insurance coverage. City officials said that liability insurance could not be obtained from a private insurance company because of the unknown risks and potentially large number of liability claims. Based on input from insurance experts, city officials and FEMA determined that the best solution was to establish an insurance company with \$1 billion in federal capital to provide \$1 billion in coverage for a payout period of up to 25 years. The insurance fund will cover NYC workers and contractor employees. As of June 2003, the details of the insurance coverage had not been finalized. Additional perspectives on how aspects of FEMA's establishment of the insurance fund differed from a traditional public assistance activity can be found on page 30 of this report.

Interagency Agreement for Lower Manhattan Transportation System Reconstruction

FEMA provided \$2.8 billion to help fund an interagency agreement with the DOT to reconstruct the Lower Manhattan transportation system. The terrorist attack at the World Trade Center severely damaged the intermodal public transportation system that was used by about 80 percent of the 350,000 daily commuters to Lower Manhattan—the highest percentage of people commuting to work by public transit of any commercial district in the nation. The Port Authority of New York and New Jersey (Port Authority) commuter station underneath the World Trade Center was destroyed, and subway stations servicing the area were sufficiently damaged to prevent trains from stopping at them. In addition, some tunnels were temporarily closed, preventing commuter buses from entering Lower Manhattan. Access to and mobility within Lower Manhattan was severely diminished. Many streets were closed due to debris from the collapsed buildings and the subsequent debris removal operations. Large rescue vehicles and heavy debris removal equipment also damaged the area streets, making them more difficult to navigate.

Plans are underway to rebuild and improve the Lower Manhattan transportation system with funding from FEMA and DOT. These agencies, under an interagency agreement, will contribute \$4.6 billion to these transportation system projects, with FEMA providing \$2.8 billion and DOT providing an additional \$1.8 billion. The agreement will result in not only rebuilding a system that was damaged, but also improving the overall Lower Manhattan transportation system. The agreement designated DOT's Federal Transit Administration (FTA) as the lead agency in charge of

administering the federal assistance and coordinating with state and local implementing agencies.

In February 2003, the Governor of New York submitted funding requests to FEMA and DOT for three priority projects estimated to cost between \$2.55 billion and \$2.85 billion—the World Trade Center Transportation Hub, Fulton Street Transit Center, and South Ferry Subway Station to improve the overall flow of commuter traffic in lower Manhattan. Although the uses for the remaining \$1.7 billion to \$2.0 billion of the \$4.6 billion in FEMA/DOT funds had not been determined as of June 2003, uses for the remaining funds being evaluated included improvements in access to JFK Airport and Long Island, improvements to West Street Route 9A, a tour bus facility, the World Trade Center sub grade infrastructure, and commuter ferries and street configuration work.

Figure 5 shows the extensive damage to the PATH commuter station beneath the World Trade Center Towers after the terrorist attacks and a model of the permanent station planned to be constructed in its place with FEMA/DOT interagency agreement funds.

Figure 5: Interagency Agreement Will Fund Construction of a Permanent New Station to Replace the Extensively Damaged PATH Station Beneath the World Trade Center Towers



Source: FEMA News Photo.

The PATH train station beneath the World Trade Center Towers was severely damaged in the attacks. A new permanent station will be constructed within the FEMA/DOT interagency agreement.



Source: Port Authority of N.Y. and N.J.

A model of the permanent station to be designed and constructed within the FEMA/DOT interagency agreement in place of the damaged facility.

FEMA is also funding transportation-related work for the Port Authority outside of the scope of this interagency agreement. This work is discussed on page 21 of this report. We provide additional perspective on how aspects of this interagency agreement differ from FEMA's traditional public assistance response to major disasters on page 28 of this report.

NYC Police and Fire Department Reimbursements

FEMA provided about \$643 million in assistance to the NYC Police and Fire Departments to pay benefits and wages to emergency workers during response and recovery efforts and to replace vehicles and equipment. As first responders, these departments suffered heavy casualties and damages in the collapse of the twin towers of the World Trade Center: 343 NYC fire department employees, 23 active city police officers, and 5 retired city police officers died in the line of duty, and 238 emergency vehicles, as well as radios and other equipment were lost or destroyed. In the months after the attack, nearly 100 firefighters per shift worked at the disaster site around the clock standing over contractor-operated steel-ripping machines looking for victims' remains. Similarly, police officers were stationed 24 hours a day, 7 days a week to provide security at the disaster site. Figure 6

includes photographs of police and firefighters during the search and rescue phase of work immediately after the terrorist attacks and 2 of the emergency vehicles that were destroyed in the World Trade Center collapse.

Figure 6: Public Assistance Funded Police and Firefighter Overtime and Replaced Emergency Vehicles That Were Destroyed in the Terrorist Attacks



Source: FEMA News Photo.

Police and firefighters worked around the clock in the search and rescue phase following the terrorist attacks. FEMA public assistance reimbursed for overtime.



Source: New York Fire Department.

Two of the emergency vehicles destroyed when the World Trade Center towers collapsed. FEMA public assistance reimbursed NYC the funds to replace emergency vehicles and equipment.

Public assistance grants to these two city agencies included \$341 million for police overtime and death benefits and \$223 million for firefighter overtime, death benefits, and funeral costs. Grants also reimbursed emergency service departments \$44 million to replace 98 firefighter vehicles, radios, and other equipment; and \$26 million to replace 140 police emergency vehicles and emergency equipment that were destroyed in the terrorist attacks.

Reimbursements to Other NYC Government Agencies

Although the NYC Departments of Design and Construction, Sanitation, Fire, and Police were the city agencies that received the largest amounts of FEMA public assistance funding for debris removal and insurance and for emergency response losses and expenses related to the terrorist attacks, FEMA also provided direct public assistance to a number of other NYC agencies for a wide range of work totaling almost \$300 million. Projects included:

-
- \$46.7 million to the Office of the Chief Medical Examiner for DNA testing, forensic analysis and equipment to help identify victims of the terrorist attacks;
 - \$8 million to the Department of Elections to reimburse the expenses it incurred to reschedule elections that were being held on September 11, 2001, and to replace damaged voting equipment;
 - \$19.3 million to the NYC Department of Education to pay for instructional time for students who missed school due to closures, delayed openings, and school relocations¹²; and
 - \$8.6 million to the NYC Department of Environmental Protection for exterior building cleaning.

Other examples of funding that went to city agencies are \$12.9 million to the NYC Department of Citywide Administrative Services for emergency supplies, equipment and services, and \$10.6 million to set up the facilities and provide equipment and furniture for the NYC Family Center and reimburse city and state personnel for overtime at the Family Center who provided services for NYC residents in the aftermath of the terrorist attacks. Figure 7 shows the cloud of dust that covered buildings for blocks around the World Trade Center.

¹²Funding of \$77 million was approved for the NYC Board of Education for this purpose. As of April 2003, \$19.3 million was. The remaining funds were de-obligated from the project and directed to public assistance related work authorized by Congress after the close out of the traditional assistance program.

Figure 7: NYC Agencies Received Public Assistance Funding for a Range of Work Including Cleaning Dust from Buildings



Source: U.S. Environmental Protection Agency.

Contaminant-filled dust covered buildings in the blocks around the World Trade Center. FEMA reimbursed the NYC Department of Environmental Protection for the exterior cleaning of 244 buildings in Lower Manhattan.

Reimbursements to Non-NYC Government Agencies

FEMA provided over \$700 million in public assistance-related funding to agencies that were not part of the NYC government, including the Port Authority, state agencies, counties, and private nonprofit organizations. Among the agencies receiving some of the largest amounts was the Port Authority, which sustained substantial losses of lives and property as a result of the terrorist attacks. The funding for the Port Authority was in addition to the FEMA transportation funding provided in its interagency agreement with DOT to rebuild and improve the Lower Manhattan transportation system, as discussed on page 16.

FEMA reimbursed the Port Authority for a wide range of work including \$285.0 million to relocate offices that were located in the World Trade Center, repair commuter train tunnels that were damaged in the terrorist

attacks, implement emergency ferry services, open a temporary PATH station, and pay overtime to the Port Authority police. The damage to the Port Authority's PATH train system was extensive; tunnels leading from the station to New Jersey were flooded and the Exchange Place station in New Jersey had to be closed because the station could not operate as a terminal. All tunnel components (i.e., fiber optics, conduits, pipes, lighting, ductbanks, track, contact rail, and ballast) needed to be replaced. The Port Authority also received public assistance funds to replace equipment it lost when its World Trade Center facilities were destroyed, including its voice telephone network, desktop computers, and fax and photocopy machines, and to pay overtime labor costs for the emergency response. Figure 8 shows PATH tunnel repair and construction efforts.

Figure 8: Port Authority Received Public Assistance Funding to Restore Tunnels That Were Flooded in the Terrorist Attacks



Source: Port Authority of N.Y. and N.J.

Ongoing efforts in June 2002 to restore two 2-mile PATH tunnels under the Hudson River, connecting Lower Manhattan and New Jersey. The tunnels were flooded as a result of the terrorist attacks.



Source: Port Authority of N.Y. and N.J.

As of March 2003, progress shows in one PATH tunnel as the PATH Service Restoration project moves forward to the goal of restoring service to Lower Manhattan in December 2003.

FEMA also provided public assistance funds to many other non-NYC government agencies to reimburse them for emergency and repair costs. For example, the New York State Police received \$45 million for security operations, and New York University received \$5.9 million for air monitoring, environmental cleaning, and emergency supplies and services. Other examples include the NYC Office of Emergency Management, which

received \$11.8 million from FEMA to replace destroyed equipment and leased office space that was located in the World Trade Center; Pace University, which was provided \$4.4 million for damaged buildings; and the Battery Park City Authority, which received \$3.9 million to repair damaged facilities.

Reimbursements for Public Assistance-Related Work Authorized by Congress

Lastly, \$1.2 billion was made available in June 2003 as a result of FEMA's early close out of its traditional public assistance program to NYC and state for congressionally authorized costs associated with the terrorist attacks. Most of these costs would not have been eligible for reimbursement under FEMA's traditional public assistance program. The close out freed funds for discretionary public assistance-related uses by NYC and state and ensured that FEMA would spend the entirety of the appropriated assistance to the NYC area. Funds obligated for all of FEMA's programs, including individual assistance and hazard mitigation, were reconciled, and funds that had not been expended for approved projects as of April 2003 were de-obligated to be used for discretionary public assistance-related expenditures. To receive the \$1.2 billion reimbursement for public assistance-related costs, FEMA officials reported that NYC and state officials must prepare traditional grant applications to document that disaster-related costs have been incurred; however, Congress authorized wide discretion on the type of costs that could be reimbursed.

As we concluded our review, the list of projects to be funded had not been determined, but NYC and state had requested reimbursements for heightened security in the aftermath of the terrorist attacks and cost-of-living adjustments to pensions of the survivors of firefighters and police officers killed in the line of duty in the terrorist attacks. A \$19 million reimbursement has been made for a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks. We discuss the heightened security reimbursements in more detail on page 32 of this report as an example of funding that was different in scope than a typical public assistance project and that would not have been eligible for FEMA funding unless it was specifically authorized by Congress.

Public Assistance to NYC Differed from the Traditional FEMA Response in Several Areas

Each disaster to which FEMA responds has aspects that make it unique from other disasters, resulting in some differences in forms of assistance provided to affected communities within the parameters of the Stafford Act eligibility requirements, according to the head of FEMA's public assistance program. While FEMA followed traditional processes for considering most applications, the public assistance response in the NYC area after the terrorist attacks differed significantly from the traditional approach FEMA has used in providing assistance under the Stafford Act after major natural disasters. The three significant differences were:

- the elimination of any local sharing of disaster response and recovery costs,
- capped amounts of funding that resulted in significant modifications to the project selection and close out processes, and
- the size and type of projects funded.

Many of these differences are based on presidential and congressional direction; however, some are the result of FEMA's interpretations of the Stafford Act to allow the approval of funding for certain assistance to New York.

No Sharing of Public Assistance Costs by State or Local Governments

The Stafford Act sets the federal share for the public assistance program at no less than 75 percent of eligible costs. The President can increase the federal share for the public assistance program if it is determined that the disaster costs greatly exceed a state's financial capabilities. In practice, the federal share has reached 100 percent for emergency work, for limited periods of time, if determined that it was necessary to prevent further damage, protect human lives, or both. In 1992, for example, after Florida and Louisiana suffered large disaster expenses as a result of Hurricane Andrew, FEMA funded 100 percent of all public assistance costs above \$10 per capita.¹³ According to a FEMA official, the 1994 Northridge, California earthquake, which cost almost \$7.0 billion, was FEMA's most costly disaster funding effort until the World Trade Center attacks occurred; FEMA provided for 90 percent of all public assistance costs. In discussing the question of state and local sharing of public assistance costs, FEMA

¹³Per capita personal income is commonly used in federal grant programs as a basis for sharing program costs between states and the federal government.

officials stated that they are reluctant to recommend a 100 percent federal share for projects unless there are compelling reasons to do so because the traditional process with a matching share creates incentives for state and local officials to control costs and closely evaluate projects.

In the days immediately following the terrorist attacks, the President determined that the magnitude and nature of the disaster justified the federal government funding the total cost of public assistance projects, and he directed that FEMA fund 100 percent of the eligible costs with no state or local matching funds. This increased FEMA's costs and significantly reduced costs to NYC and other recipients. For example, on the transportation repair and improvements efforts, NYC area recipients did not have to make a financial contribution that could have totaled nearly \$680 million—25 percent of the \$2.75 billion that FEMA is providing.

Although New York received the benefits of 100 percent FEMA funding of public assistance projects, the President reduced the amount of related Hazard Mitigation Grant Program funds provided to New York. Created in 1988 by the Stafford Act, this grant program provides funds to communities affected by major disasters to undertake mitigation measures following a major disaster. At the time of the terrorist attacks, grants funds up to 15 percent of the total amount of FEMA assistance provided are available to states following a disaster.¹⁴ However, in this case, the President limited the mitigation grant funds to 5 percent of the amount spent. Had the hazard mitigation funding percentage not been reduced, more than \$1.2 billion in mitigation funds would have been required using the customary 15 percent of total cost criteria.

¹⁴The Consolidated Appropriations Resolution of 2003, Pub. L. No. 108-7, has since amended the Stafford Act to reduce the amount available for mitigation grant funds to 7.5 percent. However, pursuant to the The Disaster Mitigation Act of 2000, up to 20 percent of the total estimated federal assistance amount is available for states that meet enhanced planning criteria.

Different Processes for Selecting Projects and Closing Out the Disaster Based on Capped Funding Amounts

In a typical major disaster, FEMA's consideration of whether work is eligible for public assistance is not constrained by a limit on the total amount of public assistance funding that can be spent, and disasters remain "open" with FEMA until public assistance work is substantially completed. Generally, FEMA officials approve all public assistance applications that meet eligibility criteria under the Stafford Act, and they fund the work from FEMA's disaster relief fund. Also, according to a FEMA public assistance official, direct congressional appropriations are not typically made for a specific disaster. The official explained that damaged facilities are identified within 60 days following a kick-off meeting to begin federal disaster assistance between FEMA officials and state and local officials of the area impacted by the disaster. Proposed work is then considered for eligibility and funded through "project worksheets"—applications for specific funding amounts to complete discrete work segments. Project worksheets document the scope of work, cost estimates, locations, damage descriptions and dimensions, and special considerations of each work segment. No limit is set on the dollar amount of eligible work that can be approved. As the response and recovery progresses, states reimburse applicants for all costs that meet the Stafford Act's public assistance eligibility criteria and FEMA reimburses the states for the federal share. A public assistance official noted that disasters remain open with FEMA long after public assistance funds have been obligated. For example, as of June 2003, the Northridge, California, earthquake was still an open FEMA disaster 9 years after it occurred due to large and long-term reconstruction efforts. Disasters are "closed" when the project is complete, the final costs are known, and all appeals of funding decisions have been resolved.

Following the terrorist attacks, however, the process of selecting projects that were eligible for funding and closing out the public assistance for the NYC area did not follow FEMA's customary process because FEMA had a set amount of funds available for public assistance efforts. Congress provided FEMA with specific appropriations for the terrorist attacks that resulted in a capped funding amount of \$8.8 billion for its efforts to aid the NYC area from the President's pledge of at least \$20 billion in federal assistance. In consideration of funding required for its other programs (assistance for individuals impacted by the disaster and hazard mitigation grants), \$7.4 billion remained available for public assistance and public assistance-related projects. To help ensure that the amount of public assistance did not exceed this amount, FEMA asked that city and state officials prioritize their funding needs. As a result, about \$400 million in funding initially budgeted for the Port Authority was eventually reallocated to other projects. FEMA also delayed a decision on funding for

city and state pension actuarial losses resulting from line of duty deaths of police and fire fighters at the World Trade Center site so that officials could be certain that the costs of the project would not cause FEMA to exceed its total appropriation for the disaster.

A second major difference from how FEMA typically manages a disaster occurred when it established a June 30, 2003, deadline for closing out the regular public assistance program and the disaster before work was completed. According to FEMA officials, they established this deadline for closing out public assistance projects eligible for funding under the Stafford Act so that any remaining funds could be used for work identified as high priorities by city and state officials in New York and authorized by Congress. They said that deadlines for closing out public assistance had not been set in any prior disaster until work was completed, but that they believed it was necessary for the NYC area to manage the available funds to ensure that its priorities are best met as quickly as possible.

Size and Type of Work Was Different Than Work in Other Major Disasters

The response to the NYC terrorist attacks was the largest public assistance effort in FEMA's history and by far its largest response to a terrorist event. Prior to the World Trade Center attacks, FEMA's most costly disaster assistance—almost \$7 billion—was provided to aid in the recovery from the Northridge, California, earthquake in 1994. FEMA spent more than \$1 billion for five other disasters in its history. Further, FEMA's experience with terrorism was limited to two occasions prior to the World Trade Center attacks. In April 1993, a major disaster was declared in the aftermath of an explosion caused by terrorism at the World Trade Center. FEMA spent about \$4.2 million on that disaster recovery. In April 1995, an emergency and then a disaster were declared in Oklahoma City, Oklahoma, in the aftermath of the bombing of the Murrah federal building—FEMA spent about \$530 million on that recovery effort.

In its response to terrorism in the NYC area, FEMA provided public assistance funds for the same types of projects that are funded after a natural disaster (e.g., removing debris, repairing roads, and replacing emergency vehicles that were destroyed). However, other work funded was quite different because of the magnitude and nature of the disaster. FEMA officials said that they determined that some non traditional work was eligible for its public assistance program using flexible interpretations of the Stafford Act. Examples of public assistance projects approved by FEMA that we identified as being different from traditional public assistance work due to their size and/or type of work done included

improvements to the Lower Manhattan transportation system and air quality testing. Some of these projects are discussed as follows.

Improving Lower Manhattan's Transportation System (\$2.75 billion). Public assistance has traditionally been limited to repair of disaster-related losses and damages to existing infrastructure. Assistance has not generally been provided to enhance or modernize the infrastructure beyond its pre disaster conditions. In recognizing the interdependence of Lower Manhattan's transportation system, however, FEMA officials said that they broadly interpreted their guidelines to enter into an interagency agreement with DOT to rebuild physical facilities that were damaged from the attacks and construct new facilities that may improve the overall Lower Manhattan transportation system. FEMA attorneys said that they determined that the Stafford Act would permit funding for the restructuring of the Lower Manhattan transportation system because they concluded that repairing and replacing individual elements would not completely restore the system's functionality.

Testing air quality and cleaning buildings (\$36.9 million). FEMA officials said that air quality testing and removing dust from buildings had not been an issue in prior major disasters, however, it was important to the physical and psychological well being of NYC citizens in the aftermath of this disaster. FEMA determined that the testing of air quality and cleaning were eligible for public assistance funding where the collapse of the World Trade Center buildings, resulting fires, and subsequent debris removal caused potential health issues related to air quality. To meet this need, FEMA entered into interagency agreements with EPA to sample and test air quality in the NYC area, as well as to test ways to clean potentially hazardous dust in building interiors. FEMA also provided funding to the New York Department of Environmental Protection for the exterior cleaning of 244 buildings and the interior cleaning of residences. EPA provided oversight over the interior cleaning program as part of the interagency agreement with FEMA.

Reimbursing costs for rescheduling New York elections (\$11 million). According to a FEMA official, this disaster was the first during which elections were being held on the day of a federally declared disaster event. FEMA officials said that they considered whether the costs of canceling the elections statewide and rescheduling them at a later date were eligible for public assistance or were increased operating expenses for the state and local governments that are not considered to be eligible for assistance under the Stafford Act. After initially denying the public assistance application for reimbursement, FEMA officials reconsidered and

determined that the costs were eligible for reimbursement as disaster related expenses. NYC was also reimbursed for costs of damaged and destroyed computers, voting machines, and ballots as Stafford Act eligible public assistance.

Aiding WNET Public Television (covered completely by private insurance) and the Legal Aid Society of New York for Public Assistance (\$1.6 million). According to FEMA officials, WNET, a nonprofit television station, requested reimbursement from the public assistance program for expenses for a communications antenna that was damaged in the World Trade Center attacks. The New York Legal Aid Society asked for reimbursement of disaster-related costs including repair of damages to its building and reconstruction of its data hub that was destroyed in the attacks. Although public television stations are not among the specific types of non profit organizations that are normally considered to be eligible applicants for public assistance because they provide essential government services (i.e. educational, medical, water, and sewer treatment facilities), FEMA determined that WNET was eligible as a public facility because it provided health and safety information to the general public during the crisis. Later, WNET received full coverage for its claims from a private insurance company, so FEMA funds were not awarded. Similarly, FEMA officials said that although legal aid societies are not generally eligible for public assistance, the Legal Aid Society of New York was eligible because it provided government services as the public defender for NYC. These projects were not traditional because they required flexibility in FEMA's interpretation of Stafford Act definitions of private nonprofit and public facilities that are eligible for public assistance.

Notwithstanding its efforts to be flexible in defining public assistance activities eligible under the Stafford Act, FEMA officials denied some applications because they determined they were not eligible for public assistance under the Stafford Act, but the Congress directed FEMA to reimburse the NYC area for some public assistance-related costs that would not otherwise have been eligible for funding. An estimated total of \$2.2 billion of FEMA's public assistance funds—about 28 percent—will go to these costs.¹⁵ This public assistance-related funding was different from work FEMA funds under the Stafford Act. The projects included

¹⁵The congressionally directed funding includes funding for projects that FEMA officials said were at least partially eligible for public assistance under the Stafford Act (i.e. the contractor portion of the \$1 billion debris removal insurance fund to cover workers at the World Trade Center site.)

authorizing a debris removal insurance fund for workers at the World Trade Center site and reimbursing NYC agencies for the costs of providing heightened security after the terrorist attacks. In addition, as discussed on page 24 of this report, as we concluded our review, FEMA and NYC and state officials were considering projects to be funded with \$1.2 billion that became available after the close out of traditional work in June 2003 for congressionally authorized purposes. None of these reimbursements were eligible for funding under FEMA's public assistance program. Reimbursements being considered included payment of increased costs of the Medicaid program to meet health needs of recipients after the attacks, a public awareness campaign called "I Love New York," which was designed to attract visitors back to the city after the terrorist attacks, and cost of living adjustments made to the pensions of survivors of firefighters and police officers killed in the line of duty in the terrorist attacks.

Descriptions of Three Projects and the Congressional Actions Taken to Fund Them Follow

Debris removal insurance for workers at the World Trade Center site (\$1 billion). As discussed on page 15, this project establishes an insurance company to insure NYC and its contractors for claims arising from debris removal at the World Trade Center, including claims filed by workers who suffer ill health effects as a result of working on debris removal operations. FEMA officials said that the project is unprecedented in its size and complexity and because it involves long-term health and environmental issues of a scope FEMA had not considered in prior major disasters. Although officials said that FEMA has never established an insurance fund to manage claims from other major disasters, FEMA Office of General Counsel officials noted that FEMA does frequently pay for contractors' insurance because it is built into the contract between the public assistance applicant and the contractor. In this instance, workers rushed to the disaster site before any contracts were approved, and no private insurance company would carry the insurance because of unknown liabilities. FEMA officials said that the portion of the project pertaining to contractors qualified for public assistance under the Stafford Act and is a disaster-related cost that FEMA has traditionally assumed in major natural disasters. Expanding the coverage to include liability for claims filed against NYC or by city workers was an eligibility issue that was under consideration within FEMA when Congress authorized the funding in the Consolidated Appropriations Resolution for fiscal year 2003.¹⁶

¹⁶Pub. L. No.108-7.

Reimbursement for heightened security costs in the aftermath of the terrorist attacks (amount of funding not determined). FEMA denied applications for public assistance to reimburse city agencies, including the Departments of Environmental Protection, Corrections, Fire, and Transportation to cover costs for increased security (e.g., the Department of Environmental Protection took increased security measures to protect the city water supply). A FEMA official said that the applications were not eligible for public assistance because the work was of the sort that was being done nationwide after the terrorist attacks and were intended to prevent future attacks rather than respond to the disaster that had occurred. However, NYC Office of Management and Budget (OMB) officials said that some of the heightened security costs would be reimbursed as a result of the enactment of the Consolidated Appropriations Resolution for fiscal year 2003, which allowed NYC flexibility in covering disaster-related costs not otherwise reimbursable under the Stafford Act. At the time of our review, the amount of funding to be provided for heightened security costs had not been determined, but it was anticipated by FEMA officials to be over \$100 million.

Reimbursement for instructional time for students to make up for days missed after the terrorist attacks (\$19.3 million). FEMA initially denied a public assistance request to pay for additional hours of instructional time for students who missed school due to closures, delayed openings, and school relocations in the aftermath of the terrorist attacks. FEMA officials said that the application was denied because the after-school program designed by the NYC Board of Education to make up for the lost instructional time was predicated on direct FEMA funding, but it did not meet the standards of emergency work for which applicants must perform work immediately after a disaster, regardless of who will pay, to eliminate an immediate threat to health, life, and safety. However, FEMA was specifically directed by the congressional conference committee making supplemental appropriations for fiscal year 2002 to provide funds for the additional instructional time. The conference report also directed FEMA to provide compensation to the NYC school system for costs stemming from the terrorist attacks for services and supplies, including mental health and trauma counseling, guidance and grief counseling, and replacement of lost textbooks and perishable food.¹⁷ NYC Board of Education had spent \$19.3 million of a total \$77.6 million approved for this

¹⁷House Report 107-593.

work as of April 30, 2003. The remainder of the funding was de-obligated to be used for public assistance related spending authorized by Congress.

Response to NYC Area Creates Uncertainties about How Assistance Would be Delivered in a Future Catastrophic Terrorist Event

Because the public assistance response to the NYC area after the terrorist attacks was unique and expanded in terms of the level and types of assistance provided, it creates uncertainty about how public assistance will be delivered if another catastrophic terrorist attack occurs. Both NYC and FEMA officials, including managers of the World Trade Center Federal Recovery Office and top officials of the NYC Offices of Emergency Management and OMB, agreed that they were uncertain regarding the level and type of future FEMA assistance. These officials stated that if another major terrorist disaster occurs, other communities might seek similar types of assistance as was received in the federal public assistance response to New York. In this regard, an official of the NYC OMB anticipated that one of the first calls by a mayor of a city that experienced a major terrorist event would be to NYC to discuss the decisions made in the aftermath of the World Trade Center attacks. FEMA Recovery Office officials agreed that the decisions made in New York would be on the table at discussions of federal assistance for any future terrorist event. They noted that it would remain to be seen whether an approach similar to the one that evolved in NYC, including a 100 percent federal share for public assistance funding, a capped funding amount, and flexibility in addressing needs, would be used following any future event.

The Congressional Research Service noted similar concerns in a June 2002 report about the implications that the response and assistance provided to the NYC area may have on future federal response to catastrophic terrorist events.¹⁸ The agency's report pointed out that one of the long-standing principles of federal disaster assistance policies has been that federal aid should supplement—not supplant—nonfederal efforts and that the actions taken in the aftermath of the terrorist attacks might have established precedent for an expanded federal role in consequence management after terrorist attacks. The report noted that traditionally, the types and amounts of assistance provided after one disaster have been sought following succeeding catastrophes.

¹⁸Congressional Research Service, *Federal Disaster Policies After Terrorists Strike: Issues and Options for Congress* (Washington, D.C.: June 24, 2002).

The report also states that the overriding question is whether the range of existing federal policies for responding to disasters is appropriate if a terrorist attack more devastating than that of September 11 were to occur. This is a question to which NYC and FEMA officials have differing positions. With respect to the effectiveness of the Stafford Act in dealing with a major terrorist event of an impact equal to or greater than the World Trade Center attacks, the officials from NYC involved in the response and recovery efforts whom we interviewed did not believe that the act fully addressed the needs of the city and did not think it should be used to respond to major terrorist events unless it had significant amendments to address the unique challenges related to terrorist events. According to top officials of both the NYC Office of Emergency Management and OMB, the public assistance program authorized by the Stafford Act is not a good fit for the needs of a large municipal government that is coping with the effects of a terrorist event. They pointed out that the impacts of the terrorist attacks in NYC were different than impacts from the natural disasters that the act was created to address. For example, the Stafford Act does not address concerns such as the federal government's responsibility for addressing long-term environmental liabilities. Additionally, a NYC emergency management official noted that the Stafford Act lacked provisions for cities and states to be eligible for reimbursement of money spent to provide security in the immediate aftermath of terrorist attacks. The city officials noted that funding to help alleviate these impacts was eventually approved, but not without considerable discussion with FEMA officials and specific direction from Congress.

A key NYC OMB official also said that the Stafford Act is too restrictive for responding to a major terrorist event because it does not allow the reimbursement to affected communities for budget shortfalls resulting from lost tax revenues. The official said that NYC lost tax revenues, both from real estate taxes from the destroyed buildings and corporate, sales, and income taxes from displaced businesses and individuals that were eligible for reimbursement under the Stafford Act. He said that NYC requested \$650 million in reimbursement for revenue shortfalls in fiscal years 2002 and 2003 that were directly related to the terrorist attacks. While FEMA officials agreed that the estimate seemed reasonable, the amount was not eligible for reimbursement under the Stafford Act. Congress recognized the problem and provided the city some flexibility to cover expenses in these areas. However, the New York OMB official said that a federal block grant would have allowed the city to spend the money in ways that were most needed without specific congressional authorization to do so; he viewed a block grant approach to providing

disaster relief as preferable to trying to obtain the funding under the Stafford Act.

In contrast, FEMA officials said that the Stafford Act worked appropriately for the NYC area. FEMA attorneys said that the Stafford Act contains enough flexibility to allow funding for non traditional activities. They added that every disaster has unique aspects, which continually challenge FEMA officials to exercise their discretion under the act to provide needed assistance. Furthermore, they point out that it is always the prerogative of the Congress to provide additional assistance to disaster-affected areas to address specific and unique needs. If Congress saw a need to fund public assistance-related work not covered under the Stafford Act in the event of another major act of terrorism, it could appropriate funds specifically for the disaster, as it did in NYC. Consequently, the FEMA officials are generally satisfied that they are able to apply provisions of the Stafford Act to respond to the terrorist attacks and, as of June 2003, did not believe significant changes to the legislation were necessary in the aftermath of September 11, 2001.

Nevertheless, FEMA recently initiated an effort to develop a concept for redesigning the public assistance program. A working group of the Public Assistance Program Redesign Project, formed at the request of the director of FEMA's Recovery Division, held its first meeting in May 2003. Members included FEMA public assistance and research and evaluation staff and state program managers to provide a broader perspective on the issues and concerns. The project was established to suggest proposals to improve the public assistance program and make it more efficient and capable of meeting community needs for all types and sizes of disasters, including those resulting from terrorism. Among other things, the project seeks to transform the program to one that:

- is flexible enough to meet the demands of disasters of all types and sizes,
- reduces overall resource requirements,
- offers incentive for timely close outs,
- places operational control principally with states and applicants, and
- eliminates redundancies in decision making and processes.

The working group will examine potential options for redesigning the program that include an annual block grant program managed by the

states, a disaster-based state-managed program, and a capped funding amount. The project is currently scheduled to hold a listening session for local officials and representatives of other organizations in August 2003, and develop a basic concept design for revising the program by September 30, 2003.

Conclusions

The public assistance program FEMA delivered in the NYC area after the terrorist attacks was substantially different in several ways from a “typical” FEMA public assistance response. For example, in the NYC area there was a lack of cost sharing with state and local governments; a smaller than usual federal share of hazard mitigation funding; a different process for project review, selection, and close out; and, most significantly, the size and scope greatly exceeds the traditional public assistance response after a major natural disaster. The reasons for these differences are many and include the President’s early commitment to providing a specified amount of funding to New York, congressional direction on activities to fund, and FEMA’s discretion under the Stafford Act.

Irrespective of the reasons for the differences in the way public assistance was delivered after the terrorist attacks, these differences raise questions about FEMA’s response to any future major terrorist event in this country. The key issue is whether the differences in the ways the public assistance program in the NYC area was delivered will serve a baseline for the federal approach in the event of another major terrorist event. Should such a terrorist event occur, it is not unrealistic to assume that affected communities will expect to receive public assistance comparable to that provided for the NYC area to meet their needs.

DHS, within its Emergency Preparedness and Response Directorate, has an opportunity to assess the questions raised as a result of these differences and, if necessary, revise the public assistance program or provide Congress with suggestions for legislative changes that are needed so that it will be positioned to address new expectations for disaster assistance. The newly formed Public Assistance Redesign Project, established as we were concluding our audit work at the request of the Director of FEMA’s Recovery Division, plans to address many of the issues raised in this report, including whether the approach used in NYC is the appropriate way to provide federal assistance for recovery from terrorist acts. It is too early for us to assess the impact the project will have on the public assistance program in the future; however, it is a promising first step toward addressing these issues and better ensures that DHS will have

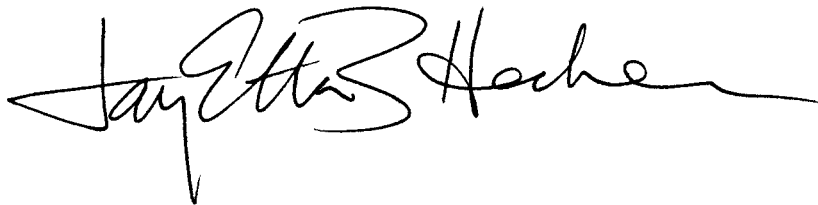
a process in place to deliver public assistance that eliminates uncertainties and questions about the ways in which the needs of affected communities will be met in the event of another major terrorist attack.

Agency Comments

In commenting on a draft of this report, the Acting Director of FEMA's Recovery Division said that FEMA officials are proud of the agency's response in delivering public assistance programs to NYC and state, and that they are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York. The Acting Director did not take exception to any of the information provided in our report. FEMA's comments are reprinted in appendix II. FEMA also provided technical comments on our draft, which we incorporated into the report where appropriate.

As we agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution of it until 30 days from the date of this letter. We will then send copies of this report to the Secretary of Homeland Security and interested congressional committees. We will make copies available to others upon request. In addition, this report will be available at no charge on our Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me on (202) 512-2834 or at heckerj@gao.gov. Individuals making key contributions to this report are listed in appendix III.

A handwritten signature in black ink, reading "JayEtta Hecker". The signature is fluid and cursive, with a long horizontal stroke at the end.

JayEtta Hecker
Director, Physical Infrastructure Issues

Appendix I: Scope and Methodology

To determine what activities the Federal Emergency Management (FEMA) supported through its public assistance program, we analyzed published FEMA reports and FEMA's National Emergency Management Information System (NEMIS) data. NEMIS is FEMA's primary information system that manages disaster grant funding, and we analyzed NEMIS data on public assistance funding for this disaster. Though we were not able to completely assess the reliability of the published FEMA program data, we did perform logic tests of the data and found no obvious errors of completeness or accuracy. Also, according to FEMA officials, the published reports are the most reliable information available. The officials said that published FEMA reports were compiled based on NEMIS data, as well as the knowledge of public assistance program managers of funding for specific projects. We also updated spending amounts for some projects to reflect changes made after FEMA's June 30, 2003, closeout of the traditional public assistance program, based on technical comments to our draft report. We interviewed FEMA headquarters, regional, and recovery office officials in New York City, N.Y., and Washington, D.C. We analyzed FEMA, Office of Management and Budget (OMB), and Congressional Research Service reports on federal assistance to the New York City (NYC) area to recover from the terrorist attacks. We reviewed the Stafford Act and FEMA regulations for ensuring that public assistance program funds are spent appropriately on eligible work and discussed oversight processes with FEMA headquarters, regional, and recovery office officials. We also discussed the agreements that FEMA used to coordinate responses of other federal agencies. We selected and examined the FEMA agreements with the U.S. Army Corps of Engineers, Department of Transportation (DOT), and Environmental Protection Agency (EPA) and reviewed support documents. We met with officials of the FEMA Inspector General to discuss planning for full audits of selected projects within 3 years of their completion.

To determine how the federal government's response to the terrorist event differed from FEMA's traditional approach to funding public assistance in other disasters, we selected 10 projects for detailed review from an issue matrix created by the public assistance officer at the World Trade Center Federal Recovery Office. The issue matrix tracked 32 public assistance funding issues and other types of concerns that required higher than normal levels of review. In making our selection of projects, we consulted with officials of the FEMA Office of General Counsel in Washington, D.C., and FEMA officials at the World Trade Center Recovery Office in New York City, N.Y. For each project selected, we reviewed available written documentation such as project worksheets, case management files, letters, and memoranda. We reviewed the legislation that directed FEMA to fund

selected projects. Using structured interview instruments, we interviewed FEMA project managers and representatives of agencies that applied for public assistance to discuss how the challenging issues were considered and resolved. Table 1 lists the 10 projects we reviewed and the applicant organizations that participated in interviews on each of them. We also discussed FEMA's staffing processes with human resources officials at FEMA Headquarters in Washington, D.C., World Trade Center Federal Recovery Office managers, and representatives of each of FEMA's three technical assistance contractors who sent staff to NYC.

Table 1: Ten Projects We Reviewed and Applicant Organizations Interviewed for Each of Them

Project	Applicant organization
Debris removal insurance for workers at Ground Zero	• NYC OMB
Reimbursement for NYC budget deficits directly related to the terrorist attacks	• NYC OMB
Reimbursement for instructional time for students to make-up for days missed after the terrorist attacks	• NYC Department of Education
NYC share of reimbursement for pension actuarial losses resulting from line of duty deaths of police and firefighters at Ground Zero	• NYC OMB
Commuter train station construction costs	• Port Authority of N.Y. and N.J. • NYC Department of Transportation
Reimbursement for damage to voting equipment and rescheduling NYC elections	• NYC Board of Elections
Reimbursement for heightened security costs in the aftermath of the terrorist attacks	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department • NYC Office of Corrections • NYC Department of Environmental Protection
Cleaning of dust and debris from emergency vehicles	• NYC OMB • NYC Office of Emergency Management • NYC Fire Department • NYC Police Department
WNET Public Television eligibility for public assistance for disaster-related costs	• Educational Broadcasting Corporation (WNET)

Project	Applicant organization
Legal Aid Society of N.Y. eligibility for public assistance for disaster-related Costs	N.Y. Legal Aid Society

Source: GAO.

To identify some of the implications these different approaches may have on the delivery of public assistance should terrorist attacks causing similarly catastrophic damage occur in the future, we interviewed FEMA officials in NYC, and FEMA and Congressional Research Service officials in Washington, D.C. We also analyzed our report and Congressional Research Service reports on federal emergency response and recovery policies, and we reviewed the Stafford Act and FEMA regulations.

We conducted this review from August 2002 to July 2003. We performed our audit work in accordance with generally accepted government auditing standards.

Appendix II: Comments from the Federal Emergency Management Agency



Federal Emergency Management Agency

Washington, D.C. 20472

AUG 20 2003

Ms. JayEtta Z. Hecker
Director, Physical Infrastructure Team
U.S. General Accounting Office
441 G Street, N.W.
Washington, DC 20515

Dear Ms. Hecker:

Thank you for having provided FEMA the opportunity to comment on the United States General Accounting Office draft report entitled "Information on FEMA's Post-9/11 Public Assistance to the New York City Area." Your staff incorporated many of our suggestions and information, thereby making the report more accurate.

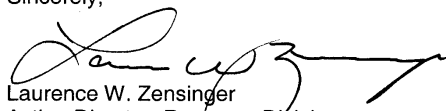
Given the enormous challenge presented by the September 11 terrorist attacks, we are proud of FEMA's response in delivering its Public Assistance programs to New York City and New York State. While FEMA does not have comprehensive authority to provide all assistance requested, we are satisfied that FEMA's authority was adequate and flexible enough in most circumstances to meet the response and recovery needs of New York.

Once the President declares a major disaster, FEMA implements its Public Assistance program to provide reimbursement for necessary assistance such as emergency protective measures, debris removal and infrastructure repair. While every disaster presents unique circumstances, FEMA's Public Assistance program and its processes and policies established prior to September 11 were implemented for New York with only slight modifications. This demonstrates the flexibility of FEMA's authority and its ability to provide essential Public Assistance regardless of the cause of the event.

More than 17 months after the disaster, Congress provided FEMA, in the Consolidated Appropriations Resolution, 2003, P.L. 108-7, additional authority to ensure that FEMA would be authorized to expend its full appropriation for the New York recovery effort. Only then was FEMA able to modify its Public Assistance program by implementing an expedited financial closeout to expedite the obligation of FEMA's remaining funds to New York.

We appreciate the opportunity you have given us to make meaningful contributions to your report. Please call me at (202) 646-3642 if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laurence W. Zensinger', is written over the typed name.

Laurence W. Zensinger
Acting Director, Recovery Division
Emergency Preparedness and Response Directorate
Department of Homeland Security

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

JayEtta Z. Hecker (202) 512-2834
John R. Schulze (202) 512-4390

Acknowledgments

In addition to those named above, John E. Bagnulo, C. Vashun Cole, Kara Finnegan-Irving, Julian L. King, Deborah A. Knorr, and John A. Rose

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