

**STAFFORD ACT REFORM: SHARPER TOOLS FOR
A SMARTER RECOVERY**

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY
OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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WEDNESDAY, MAY 12, 2010

U.S. SENATE,
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:41 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Mary L. Landrieu, Chairman of the Subcommittee, presiding.

Present: Senators Landrieu, Graham, and Pryor.

OPENING STATEMENT OF SENATOR LANDRIEU

Senator LANDRIEU. Good afternoon. I would like to call the Subcommittee on Disaster Recovery to order. Let me begin by apologizing for starting just a few minutes late. I was called to the floor unexpectedly on an amendment that I am offering on the bill, so I apologize, but I am happy we could get started now.

I am looking forward to both of our panels today and I would like to get right in, if I could, to my opening statement, and hopefully we will be joined by one or two other Members that are here to welcome individuals that are serving on the second panel from their home States, Senator Graham and Senator Pryor.

But I am very happy to conduct this hearing this afternoon to focus on continued reform of the Stafford Act and to make sure that we are doing everything we can as a country to be ready for whatever disaster might unfold. And today in America, families in Tennessee and Rhode Island are striving to bounce back from some of the worst flooding in each of their States' histories. Right now in the Gulf of Mexico, we are bracing for what could be the largest maritime oil spill in our Nation's history. And New Yorkers are breathing a cautious sigh of relief that the car bomb in Times Square didn't detonate.

These are some events that have triggered the Stafford Act declaration or could conceivably have triggered such a declaration, so let us remember as we begin this hearing that the system that we are examining has to work in each and every one of these cases, and they are so very different—different parts of the country, different ramifications, different consequences, different public reactions, and even the cause of these are so different. So that is the difficulty of this work, but it is important work that we continue to do and I thank the panelists that are here to participate.

So the purpose of our meeting is to evaluate the Stafford Disaster Relief Act and to review the proposals for its reform. The law was originally written to provide some flexibility and discretion and freedom of action on the part of the President. I have noticed, though, in my own work on this issue that some of that discretion has actually served as a stumbling block as opposed to a stepping stone for recovery when it has not been adequately used to help people that are struggling, not that that is a reflection on this Administration, but I think there have been policies in the past and rules and regulations that have cropped up in and around this law that have rendered it at some times not as effective as it could be.

But I also believe that Congress must revise the statute to provide clearer direction because of this and also sharper tools for a smarter recovery. Perhaps more tools are necessary, but maybe some of the tools in this tool box are a little dull and need to be sharpened. There are some limitations in the current Act with regards to presidential authority that I think we need to look at, and maybe some of those need to be changed.

This Subcommittee has compiled numerous legislative recommendations from hearing witnesses over the last 4 years spanning public assistance, housing, mental health issues, case management, environmental reviews, interagency coordination, and the Administration of block grants. Let me just list a few that we may be considering.

Lack of advanced funding. Right now, the Federal emergency Management Agency (FEMA) does not provide under the current law advanced funding for public facilities until the facilities have been evaluated, they have been rebuilt, and then FEMA reimburses. Of course, in a situation where a tornado comes through a town and destroys one fire station and two schools, that process may work beautifully. But in a community like New Orleans, where 300 public buildings were destroyed and the city government was basically rendered inactive because of lack of budget and population, trying to—for a city or a State to advance this funding, waiting for the Federal Government to reimburse it doesn't seem like the smart way to recover, in my book, and we want to look about changing that.

Arbitration and appeals is another issue. Disagreements between FEMA and disaster-stricken communities frequently drag on for years. At the end of 2008, after Hurricanes Katrina and Rita, 3 years after those two horrific storms and flooding caused by the levee break, we had 1,300 projects in dispute with FEMA—1,300. It was a bottleneck that could not be broken until I, with the help of many of my colleagues, had to literally pass another Act of Congress to establish an arbitration panel and to force FEMA.

I am happy to say this Administration cooperated and Secretary Napolitano and Administrator Fugate have implemented that new provision very well, and as a result, disputes have been resolved. However, because of some question about it, it was limited only to Hurricanes Katrina and Rita, so unfortunately today, as of September 30, FEMA still has 61 disasters that are still open and have been open for more than 10 years in communities throughout the United States, unable to resolve disputes between local governments and FEMA. There has got to be a better way.

Community disaster loans is another area. When Hurricanes Katrina and Rita hit, I was shocked to know that the total limit of borrowing available to any community was \$5 million. The budget of the City of New Orleans at the time, if I remember, was \$240 million. What was borrowing \$5 million useful to New Orleans or to any city that might be hit, a significant metropolitan area, or a small town, for that matter, as well, by a major hurricane. I am sure it wasn't much of a help for Galveston, either. We must review those limits.

Individual assistance reform, mental health, the Federal Government doesn't seem to have a strategy to assess disaster-related mental health needs, and they can be immense after a tragic, catastrophic disaster, as we know. Hurricane Katrina followed a common pattern that we see in catastrophes where demand for services rapidly outstripped supplies, leaving trauma, grief, and depression and anxiety there in the community. These storms and floods and levee breaks leave mental health facilities destroyed. They displace mental health professionals so that people have nowhere to go that are trying to rebuild their community to seek professional help.

We want to see what we can do to fix this. Despite GAO's recommendations issued over a year ago and to expand services under the program and three hearings by the Subcommittee on the subject and the development of a white paper by the Substance Abuse and Mental Health Services Administration (SAMHSA) proposing specific reforms, still no action on this has been taken.

Trailers, alternative housing—the Stafford Act does not allow FEMA to repair rental units, which might be some of the quickest, most effective places for people to be housed and have the best long-term impact on a community, as opposed to having rental blight inside of a community while we are attaching trailers to the empty lots in the same neighborhood. It doesn't seem to make a lot of sense to me in terms of long-term expenditure of taxpayer dollars.

Case management is another situation. After Hurricane Katrina, the Federal Government simultaneously operated multiple case management programs on the Gulf Coast, each with different rules and standards. Service providers were unable to access FEMA's database on household needs. Cases were closed based on referrals instead of outcomes. We want to look at that.

And then, finally, a lack of interagency coordination, although I must say it has gotten considerably better since this Administration has come on board, and the Departments of Housing and Urban Development (HUD), Homeland Security, Commerce, and Small Business have really stepped up to see what they can do, and it is obvious in some of the recent executive decisions that have been made. I still think as we move forward, more integrated approaches for interagency cooperation is necessary.

And finally, I would be remiss, particularly because of what happened in Haiti, although it is not the subject of this hearing, when you think about the long-term recovery needs of Haiti, it makes you realize there are still many long-term recovery needs along the Gulf Coast and that the Stafford Act is not completely silent but almost silent in terms of long-term recovery needs, which I think is important for this Subcommittee to evaluate.

So this has been a multi-year effort. We are hoping to have final legislation sometime developed this summer. Also, a children's reform piece of legislation developed, as well, with the help of several other committees that have been working on that and an independent commission.

So I would like to turn the hearing now over to our first panel—I am going to introduce them briefly—to receive your opening remarks on the subject of this hearing, and then we will proceed with a round of questioning.

So let me welcome again to the panel Administrator Fugate. We are pleased again to have you here. This may be your sixth appearance before this Subcommittee, at least somewhere between four and six, and we are very appreciative of you making the time since you have come aboard as Administrator and we are looking forward to your testimony today.

And Matt Jadacki, Deputy Inspector General for the Department of Homeland Security. I have reviewed your testimony and we are very interested in some of your findings and conclusions and suggestions.

Mr. Fugate.

**TESTIMONY OF HON. W. CRAIG FUGATE,¹ ADMINISTRATOR,
FEDERAL EMERGENCY MANAGEMENT AGENCY, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. FUGATE. Well, good afternoon, Madam Chairman, and again, as any of the other Members join us.

When you asked me questions in my confirmation hearing about how I wanted to approach dealing with the regulatory environment that FEMA operated in, I laid out a construct that said that I was governed by three principle doctrines, the Stafford Act and what did Congress say and the intentions behind the Stafford Act, and then the interpretation of implementing that through the Federal regulatory process and the Code of Federal Regulations (CFR), and then the area where I thought as Administrator we needed to look at first, which was in our actual policy and procedures and also our implementation of those policies and procedures and start with that effort first.

In doing that, we are finding that, as you point out, the Stafford Act does have tremendous flexibility, but the application of it has sometimes been restricted or had self-imposed limitations which were not supported by statute or even by rule.

One of the things that Secretary Napolitano did at the request of the President and working with the State of Louisiana was bring in new leadership to the Long-Term Recovery Office. Tony Russell was brought in to begin that process, and one of the things that is interesting about what happened in that following time frame, where almost a billion dollars in backlog of projects were able to start moving forward, was to question what did we change. And Tony points out that, by and large, about 90 percent of the workforce that was there the year before was the same workforce that was able to move forward, and that in many cases, it wasn't changing our regulations, it was clarifying the recommendation.

¹The prepared statement of Mr. Fugate appears in the Appendix on page 31.

As pointed out in the IG report, we have a challenge in making sure that we consistently apply our procedures and policies and we clearly understand what the outcome is supposed to be. So as we went through and began that process this year, I have asked and directed the Public Assistance and Individual Assistance Programs to look at our current policies.

Well, since January, in the Individual Assistance area, we have reviewed 29 of those. We have actually looked at them and said four of them shouldn't even be a policy. It is a standard operating procedure to have the consistency that, again, the IG points out that if you don't have the consistency in this process, it leads to all kinds of challenges, particularly where you use a workforce that has combined permanent, semi-permanent, and contracted temporary hires. If you don't have a good document to work from, you are going to get inconsistency.

We looked at two of those policies and actually said they should be part of the CFR. They need to go through a regulatory review process and rulemaking. Public Assistance (PA) looked at theirs. They had about 55 policies they have worked through. And again, they saw that several should have been converted into the Standard Operating Procedures (SOPs). The way it was written was actually a process, and in trying to do that, people were reading it differently than what the outcome should have been because they are reading a policy that is really about how you do something, not what the outcome was. I mean, to one of the policies, it should actually have just been a fact sheet. It shouldn't have been a policy. And then, again, looking at four policies that should be regulatory and eight that need to be revised.

So again, in this first go-around, we are looking at these from the standpoint, before we go back and ask for regulatory changes or look at Stafford, is making sure that we are doing the things that the statute says and the rules say we should be doing and making sure we are clear and consistent in that application.

And I think from that process, several issues that were raised in talking with a lot of applicants that led, I believe, to some of the issues we had in arbitration was the requirement to provide information, and oftentimes going back and using other information. I will give you an example, Madam Chairman.

If a professional engineer on behalf of an applicant, licensed in the State in which they are, certifies a level of damage, why don't we accept that? We would actually bring in our own person, who may not be a licensed engineer, to do a review and do the worksheet. So we now have determined internally to be consistent that if we have a licensed professional engineer in the State of record in which they are that renders a decision, we are going to consider that decision the subject matter expert and not seek outside counter or another opinion.

If you do that, I think it gets to some of the crux of these matters that we saw ourselves getting into, and by far, we have a lot of work to do. And in the IG report, I think you are going to see some themes there that we are starting to address but we have not gotten to where we need to be. We are doing this in response to current disasters. We are doing this in response to older disasters.

But I would be remiss in my final 10 seconds to not bring up, I cannot do any of this going forward without the Disaster Recovery Fund being replenished with supplemental because I can do no permanent work in any open disaster or new disaster that is about to occur.

Senator LANDRIEU. Thank you, Mr. Fugate, and as you know, the Senate will be marking up that bill tomorrow and we are going to try to expedite that bill through Congress because the jar is empty right now and there are lots of projects that are in the Gulf Coast area and around the country that need this funding to continue, and we realize that it is an emergency and we need to move that bill as quickly as we can.

Mr. Jadacki.

TESTIMONY OF MATT JADACKI,¹ DEPUTY INSPECTOR GENERAL, OFFICE OF EMERGENCY MANAGEMENT OVERSIGHT, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. JADACKI. Good afternoon, Madam Chairman. Thank you for the opportunity to discuss Federal disaster assistance provided by FEMA through the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

I would like to begin my remarks by briefly outlining the views of DHS's Office of Inspector General regarding the Stafford Act and potential amendments to it. Then, as requested, I will spend the balance of my time discussing our recent report, "Assessment of FEMA's Public Assistance Program, Policies, and Procedures." In the interest of time, I will be summarizing my written remarks and ask that my full statement be included in the record.

The Stafford Act was enacted by Congress in 1988 and has been periodically amended since then. Much of the detail of how disaster assistance is handled, however, is governed by regulations or policies that derive from the Stafford Act. We contend that most of the challenges facing FEMA in the administration of disaster assistance, and in particular the Public Assistance and Individual Assistance Programs, can be addressed through regulations and policies that do not require new legislation.

Having said that, the report I will discuss now does include several matters for Congressional consideration. My office conducted an in-depth assessment of the design and implementation of FEMA's Public Assistance Program policies and procedures. The program provides critical assistance in the form of direct assistance and grants to State, tribal, and local governments as well as certain private, nonprofit organizations to enable communities to quickly respond to and recover from presidentially declared emergencies and disasters. Our assessment revealed multiple challenges that significantly hinder FEMA from consistently administering the PA Program in an efficient and effective manner. These challenges include untimely funding determinations, deficiencies in program management, and poorly designed performance measures.

The first area I would like to discuss is the timeliness of Public Assistance funding. FEMA needs to improve timeliness to avoid

¹The prepared statement of Mr. Jadacki appears in the Appendix on page 38.

project delays and improve program efficiency. Such improvements should center on the appeal determination process, environmental and historic preservation process, and the reconciliation of insurance payments.

Under the appeals process that you mentioned, FEMA takes an excessive amount of time to process appeals because it does not adhere to or does not establish timeliness standards for the entirety of the appeals process, nor does it have standardized systems to track appeals. FEMA frequently rendered its appeal decisions long after the appeal was submitted. In some cases reviewed, the process spanned several years. The problem is compounded because FEMA has no agency-wide system to track appeals from submission date to final determination. As a result, FEMA has no standardized means to identify delays for each appeal. Nearly all the subgrantees we spoke with expressed dissatisfaction with the process and its seemingly inherent lack of timeliness.

The environmental and historic process has fostered significant delays in the PA Program and continues to have a negative impact on time lines. FEMA is required to determine subgrantee compliance with applicable environmental and historic preservation laws, regulations, and executive orders before any funds are provided and work can begin. FEMA faces a number of challenges in this area, but we believe there could be improvement if FEMA initiates and triages the Earthquake Hazards Program (EHP) workload immediately after a disaster, establishes and enforces formal time limits for the EHP process, and better coordinates through agreements with other Federal agencies.

Another area that can benefit from improvement is FEMA's management of the PA program. My testimony includes a list of challenges FEMA faces in these areas and recommendations for improvement. I will not go through all of them here, but would be happy to come back to them during the time for questions.

One of the primary underlying causes, as we discussed, of the challenges FEMA faces in program management is turnover and limited training within FEMA's disaster workforce. Because the workforce is drawn nationwide from permanent employees, intermittent employees, and contractors, these staff are often assigned to areas away from their homes, and may lack the commitment for long-term assignments as well as knowledge of critical local issues, such as contractor availability and pricing. Further, FEMA sometimes transferred these employees to other disaster sites before the recovery process is completed. This results in a revolving door effect and has been exacerbated because FEMA has not established permanent offices in those States most vulnerable to recurring large disasters.

We identified a number of alternatives that could be employed to streamline the PA process in our report and we discussed both the pros and cons of each of these alternatives. I will briefly outline three of the alternatives that we have explored.

The first is for FEMA to use negotiated settlements. This alternative would change the present reimbursement process, which is document intensive, to a fixed lump sum negotiated settlement between FEMA and the grantee and subgrantee based on FEMA's estimates of damage and cost in conjunction with pertinent informa-

tion provided by the subgrantee. These estimates would be binding and would not be subject to change.

Another alternative discussed in our report is to increase the large project threshold while maintaining the current reimbursement process. This would result in a significant increase in the number of projects classified as small projects. Funding for projects classified as small projects is generally final and full payment is available upon approval of the original estimates.

We also suggested that FEMA explore replacing some grant-funded work with mission assignments. Under this alternative, FEMA could use a prescribed system of tasking and funding other Federal agencies to perform the work rather than having grantees and subgrantees perform the work themselves.

Despite the challenges presented here, we learned that many of FEMA's customers consider the PA program design inherently sound. They believe the flaws are primarily in execution. Consequently, most of the challenges could be significantly diminished by focusing on the fundamentals upon which the PA program rests. If FEMA can address these fundamental challenges, it can then move to program enhancements that will speed the recovery process in the disaster-affected area.

Madam Chairman, this concludes my prepared remarks. I welcome any questions that you may have. Thank you.

Senator LANDRIEU. Thank you very much. We are going to take a very close look at the recommendations that you have made in your report and weave them into the proposals that we are going to have in this piece of legislation.

But let me begin with just a few general questions. Since Hurricane Katrina happened, I have been very focused on the definitions of disaster, major disaster, catastrophe, in terms of triggers that could be applied based on actual damage. So could you, Mr. Fugate, outline for us under the current law what the two or three different—or four potential classifications of disasters are, and in your mind, is it clear to you and to your staff, and do you think clear to the public—let me say this, I don't think it is clear to the public, I know that—but is it clear to you what you are able to do in certain types of disasters or are you operating under just one sort of general rule book, no matter if it is a river overflowing and flooding 200 homes in X community or 10,000 homes destroyed in Y community?

Mr. FUGATE. Well, Madam Chairman, the State of Florida did a very similar thing after Hurricane Andrew. We used categories to describe levels of disaster. By the time I became a State Director, we had actually migrated to the point where we always prepared for the large-scale events and scaled down.

In looking at how we define this, I will give you the example of the most recent response in Tennessee. Tennessee was a very large disaster, and as we are seeing, it is much larger than many people realize. It would probably not be the definition of catastrophic, but it certainly was not a small disaster. Our traditional approach to a disaster when we receive a request from a governor, as has been pointed out by the Inspector General (IG) and other folks numerous times in previous disasters, is we should go out and assess and verify the level of damage exceeds the capability at the governor's

request and then make a written recommendation to the President for that determination.

However, I short-circuited that process, because in looking at the level of damages that I saw in a very brief visit and also knowing what had been reported and what the governor was telling me, I felt that we could not wait for the formal preliminary damage assessment process to go forward. We needed to act. We needed to get to work. And we made a recommendation based upon a flyover that gave us some information to support the first initial four counties. We very rapidly have added on additional counties to that to a total now of 42.

In those 42 counties, I have not conducted the first formal preliminary damage assessment and count houses. We are looking at the damages relative to the impacts, and if we feel that will probably meet or exceed the threshold, we are adding it on because our goal here in the initial response is to speed to the Individual Assistance. We have a lot of people that are either in homes that are flooded or staying in hotels and motels or staying with friends and we know we need to get these programs turned on.

But it is that mental agility to know that this disaster warranted a much faster response than the neighboring States who were more widespread but less dense impacts. The community itself was coping with the immediate needs. There was not a pressing need for outside Federal intervention that early in the recovery, and we did do damage assessments. We did reach a conclusion to support the recommendation and the President did declare it as disasters.

So it is that ability to change up and go, this is not something we can wait. This is not something that the local and State officials will be able to manage until we look at the recovery piece of this, and in both cases, neither one of them were requiring response.

So it is that ability to change the mindset and have the flexibility to go, when do you use certain processes, when do you not—when do you loosen up the rigorous process you may be using in a much smaller disaster to give you the flexibility in a larger disaster, which are all permitted under the Stafford Act, all permitted under the CFR, but oftentimes have been reactions to previous findings that areas may have been declared—did not have any significant damage and you may have had the allegations of fraud and abuse there.

And so it is doing this in such a way that we are responsible to the taxpayers, but we are also focused on the needs of the survivors and the balance between them. And I think when we look at classifications, the only danger I see in that is it sometimes gives a bright line that may not always fit the disaster, but it is getting people to understand, how do you shift.

Another example you get is projects. A reimbursement program makes sense in a small disaster where it is not encompassing the majority of your budget. But one of the things that Tony Russell was able to do, which we have the authority to do, was to advance up to 90 percent of the projects to start moving projects through the State of Louisiana and hold 10 percent back for final payment. So that reimbursement process, we can push it to the other extreme and put more money into the project on the front end and hold very little on the back end for the final accounting.

That was well within our authority, but it was the mindset to understand, we need to quit doing what is easy for us to administer and will oftentimes give us the greatest accountability and transparency without any risk of a negative finding and focus in on delivering the service to the States and local communities under the authorities that Congress granted us and understand that it shouldn't be easy for us, it should be easy for them.

Senator LANDRIEU. Let me ask you, Mr. Jadacki, that same question about classifications of disasters. I mean, on one hand, I understand about not having these classifications so tightly drawn that you limit flexibility in the event that something like Tennessee is so obvious. But on the other hand, what concerns me is I don't think if you took a survey of Americans, I don't think they would have a general understanding of what they might be entitled to or what kind of help they might be able to get because every disaster seems to be so different. The reactions are so different, the levels of loan amounts and individual assistance.

Do you think we need to sharpen our definitions or is the discretion better, in your viewpoint, from a management standpoint?

Mr. JADACKI. We have grappled with this notion of catastrophic events for years. I spent 14 years working at FEMA and the last five as the CFO, and we always classified the larger disasters based on dollar amount. It was the Northridge earthquake, over \$500 million. It was Hurricane Floyd. It was the Midwest floods and those types of things. But all that went out the back door with September 11, 2001, and then with the floods in Florida in 2004 and then certainly Hurricane Katrina in 2005. Now, we are talking billions and billions of dollars and wide areas that were affected.

So to categorize a dollar amount over a billion dollars, over two billion dollars, I don't know if that is the right way to go. I think you need the flexibility. Some argue that if it is multi-State, multi-jurisdictional, it should be a catastrophic event. But how do you tell the folks who are affected by a tornado in one town that the event wasn't a catastrophic event, even though in the grand scheme of things it was a small event?

So to put a label on something to be a major event and then a catastrophic event is real difficult. I think you need that flexibility and I think, incidentally, Hurricane Katrina, certainly that was a catastrophic event, but putting some sort of limits on it or dollar amounts or some sort of a fence around it, I just think would be real difficult.

Senator LANDRIEU. And I generally agree with that, but I will say that I think there needs to be some understanding of some of these contained situations, whether it is a tornado or a minor flooding event, although there could be a couple of hundred homes flooded, that at some level, that could and should be the responsibility of local governments and the States. And then only when a disaster gets to a point where it is overwhelming for a State or a group of States should then some additional tools kick in. And I would like to continue to pursue some of that.

I just think it helps the States to have some understanding that they might want to have some emergency funds set aside for incidents that might occur to one of their poorer counties or poorer parishes where they could step up very quickly and it doesn't take

the act of Congress to provide that help. But for States then to understand when it is beyond their capacity, and we are going to ask the Governors Association and we have the mayors here testifying about this so that we can really try to determine, when is it appropriate for the Federal Government to step in with massive aid and how that should be distributed and when and how quickly.

Let me go on to just a couple of other questions. The Individual Assistance cap, it is set now for individuals and households for a major catastrophe or major disaster at \$30,000. I don't have in front of me what the cap is for minor disasters. If you know, you could speak it into the record. But is that sufficient? Where did we find that number from? Has it just grown by inflation index since it was initially put in the bill, and does it make any sense today?

Mr. FUGATE. Madam Chairman, that number is for any disaster that is declared that includes Individual Assistance. It is based upon a previous number that was established through the rule process and was tied to the Consumer Price Index. And as we know in many disasters, as what we are seeing in Tennessee, we know absolutely that for many of those survivors, this amount of funds will not make them whole.

It kind of gets back to your discussion about the catastrophic events, and what we are trying to address in the Administration through long-term recovery planning is, is it FEMA's programs that we need to enhance or is it the other Federal programs that we need to fill in those gaps, because many disasters won't require above that. So is it better to increase the FEMA funds or is it better to better tie HUD, SBA, Farm Service Agencies, and other programs when those programs are not adequate.

So there are two approaches. We could either look at this in the Stafford Act or we could look at our other Federal programs that may actually do better at a longer-term solution, and how do we tie those together so that the survivor is not going to only one location and the outcome for that person is we were only able to help them in the immediate part of the response but not in the longer-term recovery.

Senator LANDRIEU. Well, I think it is a very important question to answer because it is just so troubling. The uncertainty in a disaster is bad enough based on the disaster itself. That is what a disaster is. It upsets the normal way of operating. But then to make it even worse, not only are governors not really clear about what help might be coming, or mayors and elected officials, but there is not a general understanding of the population about whether their hotel room will be paid for, when they might get that reimbursement. Are they going to be entitled to free housing for a month or 2 months? Is there going to be a shelter provided?

I think it is very important for us to try to be clear, and it may take us a couple of years to get this straight, but I really want to zone in on these details. Is it FEMA's responsibility right after a home is filled with floodwater to say, for the next 2 weeks, your shelter is under our responsibility, or the first 30 days, and then after that, we are turning this over to HUD, which is the housing agency at the Federal level, and through their programs of either Section 8 vouchers or maybe a new disaster voucher that could be

implemented, we could provide some kind of decent, safe housing until you can return for your rebuilding effort in your community.

I think we are going to have to—and anything that, Mr. Jadacki, that you might have that not only would work well for the person being affected but also the taxpayer. We have to keep in mind, there is not unlimited funding here, and we have to do the things that are most efficient and most within the fiscal constraints that this government is now facing and will for some time to come.

I see I have been joined by my able Ranking Member, the Secretary—Secretary, I have already promoted you—Senator Graham—

Senator GRAHAM. I will take any job I can get right now. [Laughter.]

Senator LANDRIEU. You will take any paycheck that comes, right.

Senator GRAHAM. That is right.

Senator LANDRIEU. Senator Graham, I don't know if you have an opening statement, but we were about ready to move to the next panel—

OPENING STATEMENT OF SENATOR GRAHAM

Senator GRAHAM. No. I came here, one, to tell my Chairman that you are always trying to find ways to make the government work better when it comes to disasters and the review of this Act, the Stafford Act, is probably long overdue.

When something bad happens like a Gulf oil spill or a hurricane, it is understandable that confusion comes about. It is understandable that it doesn't work perfect. But if you don't learn from past disasters, that is not understandable. So if we don't learn something from this Gulf spill and fix it, that is unacceptable. And I think you and I both understand that fossil fuels are part of our energy mix for a long time to come, and safe exploration for oil and gas here in America makes a lot of sense, because if we don't do it here, we have to buy it somewhere else, and that somewhere else when it comes to oil is not the most friendly neck of the woods.

Now, when it comes to how to make this legislation more flexible, we are talking about people who live on the front lines, and the next panel is with Mayor Riley and I look very much forward to what the Conference of Mayors have to say and Mayor Riley has to say about how Congress can learn from past disasters.

Senator Landrieu really spends a lot of time on this, because I think after Hurricane Katrina, she understands as well as anybody in the whole Congress what happens if you are not prepared, and she is doing everything she can to make sure that if something else happens, that we are better prepared, and I want to be your partner in that regard.

Senator LANDRIEU. Thank you, Senator. I appreciate that.

I have one or two more questions for this panel and then we will have Mayor Riley and others come forward on the second panel.

I want to ask you about the Disaster Recovery Block Grants, because as you know, they came in, I think, they were initially implemented after the New York September 11, 2001, disaster, and if you could correct me if I am wrong on this record. I think it was a decision that was made and now it is a precedent that is set for any catastrophic disaster. I am not sure that it was used for disas-

ters. The idea was, we have got to figure out a way to get this community some money as quickly as possible from the Federal Government. There was a quick review of all Federal programs, and bingo, Community Development Block Grants seemed to be the most flexible, something that was generally popular with local officials, and so it was put into effect.

But when you think about it, it may not be the most appropriate kind of block grant to place in a disaster. In disasters, poor people are hurt, medium, I mean, middle-class folks are hurt, and actually, wealthy people can be brought to their knees, as well. Community Disaster Loans, their essence is to support struggling communities, and so when you layer that on top of a community like New Orleans, where you had wealthy neighborhoods devastated, middle-income neighborhoods destroyed, and poor neighborhoods destroyed, we found some difficulty in meeting the needs of the community through this adaptive process.

Would it be possible for us to come up with just basic Disaster Recovery Block Grants that provide the flexibility that local officials need to actually meet the needs of their people, whether they are poor, middle-income, or wealthy? Would that be something we should consider?

And, I am sorry, my staff said that we first used it in Oklahoma City in 1994 and then hurricanes in Florida in 2005. But it is sort of something that has evolved just as the needs have grown. Should we look at a more specific Disaster Block Grant that either HUD or FEMA could issue that might be a little bit more effective or efficient than just trying to use a program that wasn't created for the disaster and kind of making it fit disaster recovery?

Mr. FUGATE. Madam Chairman and Senator Graham, what you are describing is actually the process we have been working on at the President's direction under the leadership of Secretary Donovan of HUD and Secretary Napolitano of DHS. And my shorthand is, I am calling it the bucket list. Rather than create a new program, which we know what the challenges will be in doing that, what are our existing programs? And we look at HUD a lot with the Community Development Block Grant dollars, but actually, there are other programs out there. We know within the Farm Service Agency, particularly more rural parts of the country, there are programs there. We have economic development programs within Commerce. We have disaster unemployment that Labor administers. We have education programs.

And what we are going back through is, as you point out, local governments and State governments shouldn't have to try to figure out what all the programs do. We need to deconflict that and roll in as a team, but also identify which programs exist today with authorities that would best meet the flexibility requirements, and then identify what the gaps are based upon our experience in these large, complex disasters.

We know we are going to have to do this in Tennessee. We should have been doing this earlier. And if a State has been through this and a local government has been through it, they are better able to do this. But they should not have to learn this process in a disaster.

So in the first steps as we go forward and the President makes a recommendation as to how we are going to go forward in the long-term recovery, part of this will be identifying all the Federal programs and agencies, how we work together and line up, and that may show us where there may be gaps in that flexibility or areas that are not addressed in existing programs with existing authorities.

Senator LANDRIEU. Mr. Jadacki.

Mr. JADACKI. Yes. I agree. Our office issued a Compendium of Disaster Assistance Programs about a year ago, and we can certainly get a copy of that for the record, too.

But there are hundreds of programs out there in some shape or form dealing with disaster assistance. It is just getting the right people at the table to say, this is what we need for this disaster, this is what we need for that disaster, because all of them aren't needed, but in many cases a lot are. And it is not just the Stafford Act programs. There are other programs that are out there, too. For housing, there are four or five different agencies that can provide housing. For example, what is the best course of action after a disaster? Should it be FEMA housing? Should HUD take over? At what point should it go on? And I think you need to get the right players at the table to do those types of things.

As far as providing assistance, I agree with Mr. Fugate. I think the States are in the best position to decide what best to provide for their citizens, for our preparedness. In a lot of States, some of the folks do need to be prepared for 72 hours. And we need to manage expectations. FEMA is not going to come in and give you a brand new house if your house gets washed away or blown away. You are going to get the \$30,000, or maybe something less or some other form of assistance. So I think managing the expectations of what the Federal Government is going to do versus what the State is going to do versus what the local government is going to do is critical after a disaster.

Senator LANDRIEU. Well, that is an excellent segue into our next panel, and I thank you very much. Thank you for being here.

I would like our second panel to come forward, and I am going to have my Ranking Member have the honor of introducing Mayor Riley. And then David Maxwell and Sheila Crowley, I will introduce. And thank you very much to the first panel.

Mayor, we are honored to have you here today and I would like to turn it over to my Ranking Member for some opening remarks.

Senator GRAHAM. Well, thank you, Madam Chairman. It is a real pleasure to be able to introduce Mayor Riley, the Mayor of Charleston. He is one of the longest serving mayors, I think, in the country. He must have started when he was 12. [Laughter.]

Mr. RILEY. Aren't you kind.

Senator GRAHAM. I have never known anyone that enjoys their job more than Mayor Riley. I mean, he has an enthusiasm for the City of Charleston and really the State of South Carolina second to none, and when it comes to innovation and forward thinking and trying to be a problem solver, he is a real pleasure to work with.

On this particular topic, after Hurricane Hugo and the experiences that we had in South Carolina, I think Governor Campbell and Mayor Riley made a great team back then and I look forward

to listening to what he has to say on behalf of the Council of Mayors and figure out how we can make the Stafford Act more efficient and more flexible.

So, Mayor Riley, welcome to Washington. I appreciate what you do for Charleston and the people of South Carolina. I am glad to have been able to work with you and look forward to doing so in the future.

TESTIMONY OF HON. JOSEPH P. RILEY, JR.,¹ MAYOR OF CHARLESTON, SOUTH CAROLINA, AND MEMBER, STAFFORD ACT TASK FORCE, U.S. CONFERENCE OF MAYORS

Mr. RILEY. Thank you very much, Senator Graham, for all your kind words and for all you do. We in South Carolina are so proud of Senator Graham, not just in how he represents us, but how he represents our country. He could not be more responsive to me and to my constituents. He is absolutely amazing.

Senator Landrieu, I thank you for your leadership on this issue and your leadership for Louisiana and our country. I had the privilege of serving with her father when he was Mayor of New Orleans and a great mentor of mine and one of the greatest mayors I have ever served with, one of the great mayors in the history of our country, and we are so happy another Landrieu will be leading New Orleans. I have talked with Mitch and look forward to working—

Senator LANDRIEU. Well, you are welcome. Any time, Mayor.

Mr. RILEY. Thank you. Thank you very much.

I am pleased to be representing the U.S. Conference of Mayors. The former Mayor of New Orleans, Mayor Nagin, and the Mayor of Sacramento, California, Kevin Johnson, co-chaired our committee to look at the Stafford Act and to make recommendations.

There are five key recommendations. I will mostly talk about one or two in my 5 minutes, but they are to provide special designation for catastrophic disasters, which the Chairman already raised; the issue of eliminating red tape that stymies recovery efforts; increase support to host communities; increase caps on disaster loans, which has already been mentioned; and make recovery dollars go directly to cities.

In terms of the catastrophic disaster designation, all disasters are not created equal, and there is a problem with this, a kind of a systemic problem in that 4 or 5 years after the disaster, somebody appropriately with green eye shades on are going to be auditing what happened. There is no way that 5 years later the terror and the elements of the disaster and the crisis that existed at that time can ever be understood. So it is extremely important that when there are very catastrophic events, that they have a special designation.

Let me give you two quick stories, I think, that go to that systemic challenge. Hurricane Hugo hit Charleston, the biggest hurricane in our city's history, the biggest disaster in the country's history until then, 1989. The roof blows off City Hall. That is my command post, the eyes over the city. A very nice FEMA representative was in the building and the eye was over. We were getting ready

¹The prepared statement of Mr. Riley appears in the Appendix on page 47.

for the worst part and then recovery. And I said, do you have a kernel of advice for me? And he said, "Yes, Mayor. Make sure you account for all expenses." [Laughter.]

And then 2 days later, we had received national attention. So 26 counties in South Carolina, we had. But the attention was coming to us, so I was trying to help smaller communities.

So in Berkeley County, I get a report their sewer system is out. Their generator doesn't work. They need generators. I call Senator Hollings. We find out that Fort Campbell, Kentucky, has some generators. I called the General at Fort Campbell, Kentucky. He says, "OK, we will send you 48 generators." I get a call from FEMA. They said, "Mayor Riley, you have ordered these generators and you can't do that." And I said, why? And they said, "Because we have not done an assessment." I said, there is not a working power line within 100 miles of here. There is no power. What kind of possible assessment?

So what you have is that systemic problem that eventually there is the worry about everything being spent, but during the crisis, I think it would be like during a battle and the enemy is on the other side of the hill and you have got to hit them with everything you have got. You don't want to worry that, 3 years later, somebody is going to count the number of mortars you used and whether they were too many and you are going to get punished for that.

So with the catastrophic disaster designation, you have the capacity of doing a number of things. For instance, waive the Stafford Act provisions in terms of regulatory compliance. Provide 100 percent Federal funding for all eligible categories. Establish a 90-day hold harmless period of procurement so you don't have to worry about the mortars.

The goal is—what it is with something like a catastrophic hurricane, it is like the person has a grievous injury and they need to get to the emergency room immediately. And the longer they wait, the greater risk that they are going to die or the longer it will take for them to recover and the greater permanent injury they will have. You need to get them to the emergency room immediately. You need to get all the help you possibly can. And so that is what the catastrophic designation will allow us.

I am already out of time.

Senator LANDRIEU. Take another minute or two, please.

Mr. RILEY. The direct funding is a very important point to raise, and I wouldn't use the CDBG criteria. For heaven's sake, let the mayor and council, with the input from the citizens, figure out how to use the money. They are, spending 20 hours a day working on it. They understand. But to not force all the money to come through the States when the city is usually the place where everybody is looking for response.

And just one very subjective or theoretical basis for this that I would assert, and it is what I did with my staff when Hurricane Hugo was 2 days out. We didn't know for sure it was coming, but there was a low pressure system moving gradually across the continent, across the Mississippi. Lows attract hurricanes. There was a strong high, a Bermuda high, that was going to block it so the hurricane wasn't going to turn to the right like they often do. So

it was looking like we might get it. It was a killer in the Caribbean, the biggest storm, 500 miles wide. The eye was 25 miles wide.

So I brought all my staff in, department heads, division heads, into my office, and I said, OK. We might get a direct hit. We must see this as an opportunity. And they looked at me a little blankly, and I said, it is not an opportunity we would ever want, but if it comes, it is an opportunity for us to serve our people when they need it the most, when we can save their lives, when we can give them help in their time of greatest need.

You know, governments, we have to tax. We have to regulate. City governments give speeding tickets and citations and do a lot of wonderful things, but this is the time when we have the opportunity to help our people when they need it the most. And I would argue, in the revisions of the Stafford Act, you can't legislate that exactly, but to make sure that it is not the "gotcha" 4 years later, what in the world did you do doing that, and you can't possibly—

This is my testimony 5 years ago, May the first, 1990, on this issue before a House Committee, and a fair amount of what is in here is still relevant today. And as I re-read it, it is a reminder of things I have long since forgotten in terms of the crispness of the event. But that is what this opportunity for a revision of the Stafford Act gives us, the chance to make this statute and our National Government's response a special opportunity of service to the citizens of our country. Something happened to them they never wanted and they never thought would, and our country, with creativity and with fairness and with energy responds, and they will never forget it. That is part of the opportunity. And the country is a better place because you have done it.

Senator LANDRIEU. Mayor, no one in this Congress could have said that any better than you, and it takes a mayor that has been there with their people at a great time of need, and I so appreciate the comments that you have made. If we had more mayors like you, we wouldn't have nearly the problems that we have, so thank you very much for your wonderful, heartfelt testimony.

We are joined by the Senator from Arkansas, who is here to introduce our next panelist. We are glad you joined us, Senator Pryor. Thank you for your excellent work in this area, chairing our sort of sister or brother Subcommittee, and we thank you very much for being here.

OPENING STATEMENT OF SENATOR PRYOR

Senator PRYOR. Well, thank you. I want to thank you, Madam Chairman, because your commitment to improving the way the country carries out disaster recovery has just been second to none. Since the early days of Hurricane Katrina, you have been fighting to make government more effective and efficient and responsible for people affected by disasters. Because of your work and the work of this Subcommittee and things you have done in the Senate, we have made a lot of progress since 2005. I know we still have a ways to go, but you have just really been a national leader on this.

It is a great pleasure to introduce an Arkansas native today, David Maxwell. He is the Director of the Arkansas Department of Emergency Management (ADEM), and he is the 2010 President of

the National Emergency Management Association (NEMA), and he is going to testify today.

He has an extensive record of service to the State of Arkansas, which includes over 31 years of emergency management experience. His career in emergency management began in 1978 when he worked in temporary housing for the State after major flooding in Little Rock, and I remember that flood. I was in the middle of it, actually.

He worked his way up from Planning Specialist to ADEM's Plans and Operations Division Manager. On June 30, 2006, he was appointed Director of ADEM and State Homeland Security Advisor. He has overseen 11 presidentially declared disasters as Director of ADEM and served for six other declarations as a State Coordinating Officer prior to becoming Director.

In addition, he serves on a number of State and national committees and working groups, including NEMA, the Central United States Earthquake Consortium, the Arkansas Terrorism Task Force, Arkansas Fire Protection Board, the State Emergency Response Commission, and the Arkansas Wireless Information Network Steering Committee.

All of this is to say that I believe, and hope you agree, that Mr. Maxwell is uniquely qualified to talk about what needs to be done to improve the Stafford Act and our Nation's response and recovery mechanism.

In light of the tornado that we just had in our State that killed one person last week, the horrible floods in Tennessee that took more than a dozen lives, and the tornado this past Monday evening that killed five in Oklahoma, it is clear that we are never far away from the next disaster. It is imperative that we rebuild a stronger, more effective, and more flexible Stafford Act that is designed to give us our best tools for responding to and recovering from all disasters.

So I am glad that he was invited today, and Madam Chairman, thank you for having him at this very important hearing.

Senator LANDRIEU. Thank you. Mr. Maxwell.

TESTIMONY OF DAVID MAXWELL,¹ DIRECTOR AND HOMELAND SECURITY ADVISOR, ARKANSAS DEPARTMENT OF EMERGENCY MANAGEMENT, AND PRESIDENT, NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

Mr. MAXWELL. Thank you, Chairman Landrieu, Ranking Member Graham, and certainly Senator Pryor. Thank you for the opportunity to testify today.

Senator Pryor, thank you for that kind introduction and the continued support that you have shown for both Arkansas's Department Emergency Management and homeland security programs, but also the emergency management and homeland security of this Nation, so thank you very much.

I come before you today representing the National Emergency Management Association (NEMA), and the State Emergency Managers of all 50 States, Territories, and Washington, DC. Since the Stafford Act is the primary piece of legislation guiding disaster re-

¹The prepared statement of Mr. Maxwell appears in the Appendix on page 57.

sponse, NEMA has an obvious interest in maintaining the integrity of the Act.

Originally, the Stafford Act was intentionally written very broadly to allow maximum flexibility for practitioners and discretion by the President. NEMA continues to support this flexibility and national needs must be considered in any changes to the Act. Changes for one State or region do not necessarily translate to the other areas of the country and could present additional and unintended challenges.

Furthermore, and perhaps above all else, should you decide to make changes to the Stafford Act, implementation at the State level should remain the single most important undercurrent to any such changes. It is the responsibility of the governors and State governments to support communities by ensuring a seamless response among all levels of government. State responsibility also includes providing timely and efficient resource coordination, deploying and requesting interstate mutual aid is necessary, and implementing State and Federal disaster assistance programs. By the way, 27 States have some form of disaster assistance on their own.

But to achieve all of these responsibilities, legislative changes to the Stafford Act may not be necessary. A majority of NEMA members agree that the primary issue during disaster response is not with the Stafford Act overall, but rather with disaster assistance policy. In recent years, we have realized most roadblocks regarding the Stafford Act don't lie in the legislation, but in unnecessarily strict interpretation and application of the law. These interpretations have led to more rigid regulations and policies not reflecting the true intent of the Act.

While NEMA continues to discuss whether the Stafford Act needs amending to address catastrophic disasters, we do agree that the Stafford Act does not require broad and sweeping legislative changes at this time. Before looking at amending the Act, we encourage the Subcommittee to first address some programs that support Stafford functions but are in need of reauthorization.

One of NEMA's highest priorities is the reauthorization and funding of the Emergency Management Assistance Compact (EMAC). In short, EMAC allows States to rely on existing mutual aid agreements in the time of disaster for equipment, personnel, and other resources. But EMAC needs to be reauthorized, and due to a lack of reliable year-to-year funding, long-range planning is all but impossible.

Another asset requiring legislative action is support to Urban Search and Rescue (USAR) Teams. FEMA should be provided clear authorities for Urban Search and Rescue Teams to protect local departments and task force members when injuries or other liabilities occur as a result of rescue efforts.

We also support the reimplementaion of the PA Pilot Program. This program was very popular among our membership and provides efficient ways to distribute funds from the Disaster Relief Fund (DRF) without creating new grant programs or funding streams.

The final specific program I would like to discuss is the Pre-Disaster Mitigation Program. This program is in desperate need of reauthorization, and I want to take the opportunity to thank the

Subcommittee for supporting S. 3249, which passed the full Committee just a couple weeks ago. This reauthorization bill, with the Coburn amendment discouraging earmarks, will provide States and important tool to mitigate the effects of the disaster. NEMA remains committed to working with the Subcommittee to address any outstanding issues.

Once these other programs are solidified and States are given the appropriate latitude to conduct their response, then potential shortfalls can be examined within the Act itself. But as changes are considered, there are some red flags to be careful of.

Additional layers of bureaucracies should be avoided at all costs. New task forces, coordinating councils, or Federal offices cannot substitute for knowledgeable and properly trained Federal Coordinating Officers or planning efforts States should already have in place.

FEMA should be allowed to complete the National Disaster Recovery Framework and implement some of those recommendations. Issues around public or individual assistance can be addressed through FEMA policy and regulations rather than legislation.

Finally, with such complex programs all intertwined through the various levels of government, the States should remain the sole coordinator of these functions. The States have existing personnel to manage the programs and have the ability to view disaster response and recovery through the prism of Statewide and regional needs.

As you can see, the Stafford Act is complex, but it works well, so we should be careful in making sweeping legislative changes. Such changes could dilute the original intent and create additional bureaucracies, thereby slowing future efforts.

We continue to look forward to working with this Subcommittee and I will be happy to accept any questions at this time.

Senator LANDRIEU. Thank you, Mr. Maxwell.

Ms. Crowley is here with us today and we are pleased to have her here representing the National Low Income Housing Coalition. You have testified before our Subcommittee before and welcome back.

TESTIMONY OF SHEILA CROWLEY, PH.D.,¹ PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL LOW INCOME HOUSING COALITION

Ms. CROWLEY. Thank you very much, Senator Landrieu, Ranking Member Graham, and Senator Pryor. I am happy to be here to testify today.

I would like to begin by thanking you, Senator Landrieu, for your steadfast commitment to the complete recovery of all the Gulf Coast States from the 2005 hurricanes. When sometimes it seems like much of the country and the Congress has moved on, you are an inspiration to me and to others who will keep doing this work for as long as it takes, so thank you.

The National Low Income Housing Coalition (NLIHC) would like to associate ourselves with those who have suggested the current disaster response structure, which places primary responsibility on

¹The prepared statement of Ms. Crowley appears in the Appendix on page 63.

States and local governments, is inadequate in the face of catastrophes such as Hurricane Katrina. A priority for Stafford Act reform should be to clearly define when a disaster is catastrophic, as you have discussed, and to direct the President to intervene swiftly and comprehensively in such a case.

For most people who are displaced by a disaster, finding temporary housing or a new home is time consuming and costly, but not beyond their capacity. But for low wage earners, the under- and unemployed, seniors and disabled people on fixed incomes who must leave their homes because of a disaster, the obstacles can be insurmountable. These are the people for whom government must plan.

The true measure of how complete a disaster housing plan is will be the degree to which the most vulnerable people are covered. The National Disaster Housing Strategy now is required to take into account the special needs population, but does not really deal with the problems of people who are just too poor to make it on their own when a disaster strikes.

Quick repair and reoccupancy of damaged housing should be the first order of business. Disaster housing policy can draw from the lessons we have learned on ending homelessness in the United States in which the concept of rapid rehousing is the preferred intervention today. Homeless people are provided with subsidies and services needed to move quickly into new permanent homes. Not only is the trauma reduced, but rapid rehousing is much less costly than lengthy stays in shelters or motels and hotels.

When temporary housing will be required for many people after a disaster, the emphasis should be on making the transition from temporary to permanent housing as seamless as possible. One of the most serious flaws in the Hurricane Katrina housing response has been the disconnect between the temporary housing programs and the housing recovery strategies. A renter living in a trailer encampment is told to come up with a permanent housing strategy as use of the trailer is time limited. Yet the community in which the renter resides does not have a strategy for how to replace the rental housing that was lost. A displaced family's temporary housing plan and permanent housing plan should be one of the same, just as a community's temporary and permanent housing plans should be.

For private market rental housing that is damaged, disaster resources should be used to restore the properties to habitable use as both temporary and permanent housing. The pilot program that allowed FEMA to pay for repairs to private rental housing in Iowa and Texas after the disasters in 2008 showed us that this approach is considerably more cost effective than the use of temporary housing units. Any reform of the Stafford Act should incorporate these findings.

One of the most positive developments out of the Hurricane Katrina housing experience was the designation of HUD as the agency to administer disaster rent assistance. The HUD Disaster Housing Assistance Program (DHAP), announced in April 2007, was a vast improvement over the FEMA program. Any future disaster rent assistance programs should be run by HUD and its 3,500 affiliated local public housing agencies.

One concern with DHAP that many advocates have is that rents are not based on tenant income and the tenant's share of rent increases by \$50 a month until it equals or exceeds the amount of assistance unless they can demonstrate economic hardship. Fortunately, under HUD Secretary Donovan's leadership, very low-income people have been or will be transferred from DHAP to the Section 8 Housing Voucher Program. This should be made a permanent feature of DHAP. Stafford Act reform should also assure that DHAP recipients are afforded the same due process rights as are other recipients of HUD housing assistance.

In 2006, Congress provided \$400 million for the Alternative Housing Pilot program, a.k.a. Katrina cottages. The report on the pilot is not expected before the end of 2011. We would suggest that a more timely report is needed, as the pilot program is to inform Stafford Act reform. A number of issues have been raised by Gulf Coast advocates about how the Katrina cottages are being used, and we would suggest that the Subcommittee may want to look at that very specifically.

In closing, I would like to point out that it is outside of the scope of Stafford Act reform to address the structural shortage of rental homes available to very low-income Americans, but there can be no viable disaster housing strategy as long as this shortage persists. To address this shortage, Congress established the National Housing Trust Fund in 2008, but has yet to provide funding. We are seeking \$1 million this year for the initial capitalization for the National Housing Trust Fund and we urge your support.

Thank you again for inviting me to come.

Senator LANDRIEU. Thank you, Ms. Crowley. I really appreciate it.

Let me ask you, Mr. Maxwell, because I am very interested in the testimony on behalf of actually the professionals that are running the disasters that as an organization you are testifying that you think the current Stafford Act is sufficient. I have to say, I don't hear that from anyone, from any mayor or public official from any part of the country. So I am very curious about this, and I am very interested in your perspective. I think it is very important for me to try to understand this.

So let me ask you this. In Arkansas, in your experience, what is the largest dollar amount of disaster that you personally have dealt with? Do you remember or know, or even if you don't know the dollar amount, just what it was?

Mr. MAXWELL. The ice storm of 2000 was somewhere in the neighborhood of \$200 million. Interestingly, our next largest disaster had no damage in Arkansas and that was Hurricane Katrina. That was around \$50 million to support the operation.

Senator LANDRIEU. OK. And the reason I raised this is because I really think it is important, and I know that you are professionals in your work, but just to give you, I had them put this document, this sign up. The insured damage for Hurricanes Katrina and Rita was \$51 billion. For Hurricane Andrew, it was \$23.8 billion. The World Trade Center was \$22 billion. The Northridge earthquake was \$18 billion. Hurricane William was \$11.4 billion. Hurricane Ike was \$10.7 billion. Hurricane Hugo was \$7.3 billion, and that was in what dollars? What year was that?

Mr. RILEY. Nineteen-eighty-nine.

Senator LANDRIEU. Nineteen-eighty-nine. So somebody quickly could do the calculation. It would have to be at least double, if not triple, so I would say probably triple, \$21 billion.

So from my perspective, my problem is that the Stafford Act may work for a couple of million dollar disaster, but from my perspective, it is clearly not working when it comes to these mega-disasters.

Just to give you one example, the law—and I am going to ask you this, and maybe I am incorrect here, so that is what I want to get to—the law, I understand, not policy, limits the disaster loans to \$5 million. Is that true? Is it the law, or is it a policy?

Mr. MAXWELL. I believe that is the law.

Senator LANDRIEU. OK. So you are recommending any change to that law?

Mr. MAXWELL. No, ma'am. We are not recommending no changes to the Stafford Act. We are not recommending sweeping changes.

Senator LANDRIEU. OK. I am just trying to struggle with this "sweeping" definition, because one of the things we may recommend is an increase in that limit, considering—I think Senator Graham might not have been here when I said this—but as I recall, Senator, the budget of the City of New Orleans was somewhere around \$240 million a year. Of course, borrowing \$5 million wouldn't have made a bit of difference. And we had to struggle for months, trying to figure out, because the law capped it at \$five million, it took us months. Meanwhile, a mayor like Mayor Riley or Mayor Nagin, was sitting there day after day after day after day for months trying to figure out a financing package to literally keep the city functioning.

Think about this. Every police officer, every firefighter, every city employee, every 24 hours that lost their house kept asking, do I have a job, and no one could tell them because there was no ability for the Federal Government to tell them.

Now, whether you think that is sweeping or not, I think it is necessary to do something so that mayors and governors—and so, Mayor, let me ask you. What would you recommend? You don't have to give me a dollar amount, but is there something that you or some of the other mayors would think might be fair, an application for a dollar amount of either low-interest loans or something to kind of keep you going while you are figuring out how to get the roof back on City Hall?

Mr. RILEY. It depends on the city. The thing about hurricanes is this. They are a very different form of disaster because they are holistic. A tragic tornado, even a tragic earthquake and certainly a tragic flood, the path of damage is usually defined. With a hurricane, no one in the community isn't hit. No one's roof isn't damaged. No one's job isn't at risk. I mean, the whole community.

And so, maybe it is something relative to the budget or maybe even something within the regulatory power of FEMA, because, like the City of New Orleans, their need would be greater than a smaller city. But I think part of it is recognizing the scope.

And I think in terms of the Stafford Act and the future, we know this, we don't like to say it, but we know that more and more people are moving to our coasts. And so these great big hurricanes will

in time impact more people. And then for our country, the impact on our Nation's economy of a big metropolitan area being substantially impacted and not being able to get back going—what worried me, among other things during Hurricane Hugo, were the jobs.

I worked to get the power back on. They said it will take 3 weeks. I said, that is crazy. My community will die in 3 weeks. I don't care if you have to get every power company in America to have people down here. I want to have the power company up at midnight, because we couldn't—but it was the jobs, because every business that is back in operation. It is another thing to deal with your roof if you don't have a paycheck. Then you are talking, more serious problems.

So I think it is something that has the flexibility to recognize. Charleston, it might be \$10 million. In New Orleans, or I don't want to mention another city, put bad karma on them— [Laughter.]

But it might be \$100 million. You don't know.

Senator LANDRIEU. Well, perhaps we should think about a percentage.

Go ahead, Mr. Maxwell, and then I am going to turn it over to Senator Graham.

Mr. MAXWELL. It seems to be—that is one of those limiting factors within the law. I think our membership is for any additional flexibility that can be built into the law, we are for. I think, for the most part, we think that the law is limited by policies and regulations, but I think on a case-by-case basis, certainly we would look forward to working with you on recommendations that we could vet with our membership.

Senator LANDRIEU. So you think that particular matter, you may support, your membership may support. Well, we will look forward to submitting some of those questions, because we would be very interested in that. It is important to have your support and your blessing for what we are doing.

Mr. MAXWELL. We look forward to those questions.

Senator LANDRIEU. Senator Graham.

Senator GRAHAM. Well, I am learning a lot just by sitting here, but Mayor Riley is right. It depends on the size of the city, the scope of the damage done.

But in the military—I am more familiar with this kind of system—like when you are in Iraq and Afghanistan, a company commander would have the ability to spend, say, \$10,000, \$50,000 without having to go all the way to Washington to help the local community, but the more money involved, the more approval you have to get. So maybe one of the things we could look at is changing the number, but sort of have a staged approval process. The higher the number, the more the authority you have to get, but not let it stand in the way of getting some cash into the region, because it is a balancing act, Mayor Riley, that we are trying to achieve here.

Three years later, everybody is Monday morning quarterbacks, but sometimes you look and say, my God, a lot of this money was just completely fraudulently spent. You have got to have some control before it happens. And I guess the balance I am trying to

achieve is a system of accountability and flexibility that are not mutually exclusive.

Could you flesh out in your mind, Mayor Riley, how we would redefine catastrophic events, and is it your view this statute is marginally changed or major changes need to be implemented when it comes to the Stafford Act?

Mr. RILEY. I would say major. In the National Response Framework, which is a document, their definition is catastrophic events, any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption affecting the population, infrastructure, crime, the economy, national morale, or governmental functions. And so that is, I think, a definition you could work on.

I don't think you would want to use a number or anything. It would be something that the President and the head of Homeland Security would work on. But clearly, Hurricane Hugo would have been catastrophic, without any doubt.

Senator GRAHAM. Well, absolutely, and just as we think about it here, when a community is hit like this, how do you make payroll, because all the revenue stops. You can have a rainy day fund—it is one thing to have a rainy day fund. It is another thing to have a hurricane fund.

Mr. RILEY. That is right.

Senator GRAHAM. And I don't think many cities can save money for a hurricane like Hugo. So being able to meet payroll, where the Federal Government comes in with loans that will change the quality of life, to me seems to be a major change that is necessary.

We just learned, the people of New Orleans, their firemen and their policemen and their school teachers and the public servants there, not only were they on the front lines of the damage, the city was unable to pay them. And so I think most Americans would love to have a system that would interject some cash, not only to individuals for housing needs, but for the local government who has to bring about law and order as well as repair the damage.

So I am in the camp of looking at this from a major overhaul, and anything I can do to make it more flexible and achieve accountability, count me in. I have really learned a lot from the hearing.

Thank you, Mayor Riley, for coming. Thank you, Mr. Maxwell, Ms. Crowley.

Mr. RILEY. Thank you, Senator.

Senator LANDRIEU. I have just two more questions and then I think we can close the hearing. But in talking about accountability, I think some of the people that I represent are still shocked to know that some of the temporary housing in trailers, that the actual accounting of providing a trailer, managing the trailer, installing the trailer, and other services required in some instances amounted to anywhere between \$70,000, I think, and \$90,000.

And I think this gets to your point, Ms. Crowley, that for the Federal Government to spend \$70,000 to \$90,000 on something that is temporary and after a certain time really quite unusable, not even entering into the area of formaldehyde and unsafe containers, it does seem to me that we need to pursue smarter housing

strategies that are not only more long-term, but also more affordable for the taxpayer.

So would you like to just elaborate on maybe some of the successes of the rental repair that I think were tried in the Galveston situation—I don't think it was necessarily tried in our situation—and what came of that?

Ms. CROWLEY. Yes. I think that the rental repair pilot was a pilot and it wasn't retroactive to recovery from Hurricane Katrina.

In the beginning, around while the people were meeting to discuss what the housing response in the Gulf Coast should be, there was a significant amount of discussion around why can't money be used to just get the existing housing back online. We were very fortunate to have part of our group folks who had argued similar kinds of things in disasters in California and had a fairly, we thought, strong legal opinion that FEMA could, in fact, do that, although FEMA said they were not allowed to do that.

I think that it was an extraordinarily lost opportunity in the Gulf Coast for—and delayed the recovery, because if those dollars that went into all those trailers and all those motel rooms, etc., could have been spent to get much of that housing back in a way that it could be used, first of all, you would have more people back. Second of all, you would have your housing repaired. So you are not only just providing temporary housing, but you are providing permanent housing.

I did read the report on what had happened in Iowa and Texas and the savings are quite extraordinary in terms of the difference between repairing rental housing and providing temporary housing units. I just glanced at Administrator Fugate's testimony and saw that he had noted the same kinds of savings and that was something that FEMA would be looking into.

So certainly, in clearing up whatever ambiguity there might be in the law about whether or not FEMA is authorized to do that, I think would be a really important step in the Stafford Act reform.

Senator LANDRIEU. Thank you. My final question is on hazard mitigation, to you, Mr. Maxwell. You state in your testimony, for every dollar invested in mitigation projects, the Federal Government saves four dollars in averted disaster assistance, but it often takes 12 to 18 months for mitigation funds to begin flowing. Would State and local governments benefit from receiving a small advance on their hazard mitigation dollars? How would that work, and what are the details of your recommendations, if you can recall them?

Mr. MAXWELL. I, frankly, can't recall all the details, but certainly we have a lot of success stories from mitigation and preventing future disaster costs and getting money out quicker. There is a balance. You don't want to confuse the mitigation money with Public Assistance money, although there is some 406 mitigation which is part of Public Assistance.

In our recent floods in Arkansas, 90 percent of the eligible project worksheets that were written include mitigation in them. So I think—and we are working with engineers to make sure that it is not just a guess of building it—going to the next larger culvert. You find out really what you need, and we think we are going to prevent a lot of damage in the future just through the PA program.

Senator LANDRIEU. Thank you. I would like to ask the panelists if you want to end with a minute or something you would like to add that you would like to get on the record before we close. Ms. Crowley.

Ms. CROWLEY. Well, I would just like to go back to my final refrain in the testimony, and that is to recognize that when a disaster strikes and housing is one of the great casualties in there, that figuring out how to solve those problems is, for the people who are displaced, is dramatically compounded by the fact that we do have a structural shortage of housing that low-income people can afford.

And so as we look at the National Disaster Housing Strategy and really think about what will happen in the future, and building on lessons learned from Hurricane Katrina, we have to look at it in that context. And hopefully, that will help people see the broader picture of what the housing circumstances are.

Senator LANDRIEU. Thank you. Mr. Maxwell.

Mr. MAXWELL. I would just like to add to thank you for the long effort that you have gone through with a series of hearings on the Stafford Act. And I know you are getting closer and closer to coming to some conclusions and developing a bill and we look forward to any specific recommendations, running by our membership and certainly coming back to you with recommendations from the membership.

Senator LANDRIEU. Mayor Riley.

Mr. RILEY. Senator, one specific and then one general. On specific, I think with regard to housing, it is important to have a greater role for HUD in that. They have great resources and great interest and capacity, technical capacity to be of assistance.

And just on the broader one, it is the return to normalcy that is the challenge for the people of these disasters, every component of their lives getting back to normal, for their physical health, for their economic health, and for their emotional well-being.

For us, as soon as the garbage could be picked up or the mail could be delivered or the streets cleared or the power turned on, all of those things, and so the speed and the quick response is more important than anyone would realize that hasn't been through this, and that is why I think the change is needed. It just isn't up to the standard that meets the potential of the disaster and the growth of our country.

And I thank you for your very hard and thorough work on this issue, which will translate to people getting their lives back to normal, getting their feet back on the ground, restoring the economic, physical, and emotional health more quickly than it otherwise would have. Thank you very much.

Senator LANDRIEU. Thank you, and let me just end with a short comment. Two things come to mind.

One of the things that helped the people of Louisiana and the Gulf Coast feel more normal as quickly as possible was getting their children back into schools. We had 300,000 children that went to school on Friday morning and could not return on Monday, and some of those children didn't return to those schools for 2 to 3 years. Most schools in the region after Hurricanes Katrina and

Rita didn't open for at least 6 months. So normal wasn't normal for those families.

Some families I know drove two hours to put their children in school in the morning, drove back to try to repair their house during the day with no water and no electricity for months, drove back to pick their children up. It took them 2 hours. And the Federal Government at the time this happened had no plan—no plan—to pay, reimburse, help the local communities find classrooms for 300,000 children, and that took an act of Congress.

We can't do this anymore. We have to have automatic buttons that get pressed so that mayors and governors can respond and local officials can respond to the cries of their constituents. And I am going to press forward until those green buttons and those tools are in their hands to do it.

On a more positive note, my staff, I couldn't go, but my staff just got back from Kobe, Japan. Fifteen years ago, the largest earthquake that ever hit Japan hit Kobe, Japan. I don't know the amount of damage. It was billions and billions. The city was hit. And the best statement that my chief of staff made to me, or my State director when he got back, is, "Senator, you couldn't even tell the earthquake hit."

And I think that is where we want to go. I think, Mayor, that is where we want to go. When we operate so efficiently that after—now, it is not going to be the next year, but after 10 years, 5 years, 10 years, 15 years, a major catastrophe, I hope I can walk the shores of the Gulf Coast in New Orleans even 10 years from now and look and say, you can't even tell that anything happened here, because these catastrophic events take time. But the light at the end of the tunnel is, that city is stronger, brighter, more vibrant, and richer, more prosperous for all of its citizens because of what was done there, and we hope that will be the truth for Haiti. We hope it will be true for the Gulf Coast. We hope it will be true for many communities in America.

Thank you very much. The record will remain open for 15 days. The hearing is adjourned.

[Whereupon, at 4:11 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Opening Statement
Chairman Mary Landrieu
Subcommittee on Disaster Recovery
Stafford Act Reform: Sharper Tools for a Smarter Recovery
May 12, 2010

INTRODUCTION

Today in America, families in Tennessee and Rhode Island are striving to bounce back from some of the worst flooding in each state's history. The Gulf of Mexico is bracing for what could be the largest maritime oil spill in the *nation's* history. And New Yorkers are breathing a sigh of cautious relief that the car bomb in Times Square didn't detonate. These are all events that triggered a Stafford Act declaration or conceivably could have. So let us remember as we begin this hearing, that the system we are examining must function during times of uncertainty and stress, it must address a wide variety of risks, and it must meet the immediate and long-term needs of different types of communities all across this land.

STAFFORD ACT STRENGTHS

The purpose of this meeting is to evaluate the Robert T. Stafford Disaster Relief and Emergency Assistance Act and proposals for its reform. The law was originally written to provide freedom of action to the President, but roadblocks to recovery have emerged due to restrictive interpretations and a focus on process over outcomes. FEMA built up a body of regulations and policies over time that were inconsistent with the law's intent, and thereby hampered flexibility and undermined mission effectiveness. The current Administrator has sought to revise outdated policies and change the culture at FEMA to emphasize results. I am grateful for his leadership, and we will hear more about some of those policy changes today.

NEED FOR REFORM

But I also believe that Congress must revise the statute to provide sharper tools for a smarter recovery. There are some limitations within the Act on Presidential authority that become very problematic after catastrophic events overwhelm state and local capacity. These circumstances require a more global approach toward housing and infrastructure, like repairing rental units and providing lump sum payments for facilities that serve the same purpose. The law also fails to recognize the importance of long-term recovery. Planning and interagency coordination have suffered as a result.

This Subcommittee has compiled numerous legislative recommendations from hearing witnesses over the last four years on issues spanning Public Assistance, housing, mental health, case management, children, host communities, hazard mitigation, recovery planning, environmental reviews, interagency coordination, and recovery block grants. I would like to spend a few minutes summarizing some important program limitations that we've identified along the way.

Public Assistance Reforms

Lack of Advance Funding - FEMA doesn't provide funding for public facility repairs until the work has been completed. That approach is manageable when a tornado destroys two schools or a fire station, but when a city like New Orleans loses 300 public buildings overnight, it will not have enough cash onhand to start rebuilding without federal help. Congress authorized FEMA to provide grants upfront on the basis of estimates 10 years ago, but the agency still hasn't issued regulations to execute that authority.

Arbitration & Appeals - Disagreements between FEMA and disaster-stricken communities frequently drag on for years. At the end of 2008, Louisiana had 1,300 projects in dispute with FEMA from the 2005 hurricanes. This

bottleneck led me to establish an arbitration panel to get projects moving again, but its jurisdiction is limited to Katrina and Rita. Unfortunately gridlock in the PA program isn't unique to these two hurricanes. As of September 30th last year, FEMA had 61 disasters that had been open for more than 10 years, primarily because of a broken dispute resolution process. According to the Inspector General, FEMA has missed the 90-day deadline for responding to hundreds of appeals, and it lacks procedures to even track them through the system.

Community Disaster Loans – The law caps federal loans to disaster-stricken communities at \$5 million. The purpose of these loans is to maintain services and prevent layoffs in communities that have lost at least a quarter of their annual revenue, but the maximum loan amount is woefully inadequate to meet the operating needs of any major American city whose revenues are in the tank.

Individual Assistance Reforms

Mental Health – The federal government doesn't have a strategy to address disaster-related mental health needs. Katrina followed a common pattern that we see in catastrophes, wherein demand for services rapidly outstrips supply. Disasters take away homes and livelihoods, leaving trauma, grief, depression, and anxiety in their midst. They also destroy mental health facilities and displace medical professionals, so the people in need have nowhere to go. Left untreated, suicide and substance abuse become more common, and law enforcement shoulders more of the burden. First responders commonly develop mental health issues of their own. The Crisis Counseling Program authorized under the Stafford Act doesn't support the provision of psychiatric treatment or prescription medication. Despite GAO recommendations issued over a year ago to expand services under the program, 3 hearings by this subcommittee on the subject, and the development of a White Paper by SAMHSA proposing specific reforms, no action has been taken.

Alternatives to Trailers – The Stafford Act doesn't allow FEMA to repair rental units, and the agency has still not acquired trailer alternatives on a significant scale. Trailers will play some role in disaster response for the foreseeable future. But after a catastrophe, they are not cost-effective, healthy, or conducive toward stabilizing the housing market, and they may be completely unusable in a dense urban area.

Case Management – After Katrina, the Federal government simultaneously operated multiple case management programs on the Gulf Coast, each with different rules and standards. Service providers were unable to access FEMA data on household needs, and cases were closed based on referrals instead of outcomes.

Lack of Interagency Coordination

Federal coordination of recovery efforts is lacking. There is no comprehensive source of program information or ongoing measurement of program effectiveness. Unified Command Centers and Joint Field Offices are abandoned after the response phase ends. This prolongs interagency disputes, such as FEMA and HUD's two-year battle over reconstruction of public housing units in New Orleans. Federal agencies have also failed to develop a unified environmental review process, so local governments are sometimes forced to complete multiple applications for the same project.

OBAMA ADMINISTRATION'S FOCUS ON RECOVERY

The National Response Framework assigns federal leadership for long-term recovery to FEMA. But within FEMA, recovery and mitigation have traditionally received less attention than preparedness and response. I know Mr. Fugate is working to correct that imbalance, and the new Administration has emphasized the importance of recovery more than any before it. New partnerships have expedited progress and opened doors along the Gulf Coast, and the White House has created a disaster recovery framework and working group to improve system effectiveness.

CONCLUSION

These initiatives will be the subject of our next subcommittee meeting, but today we remain focused on the Stafford Act and proposals for its reform. This hearing will provide an opportunity to review an array of recommendations and help this subcommittee determine whether the Act, and its accompanying regulations, policies, and procedures, can be improved to better serve the nation. I thank you all for being here and look forward to the witnesses' testimony.

DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY

STATEMENT OF
W. CRAIG FUGATE
Administrator



FEMA

on

“Stafford Act Reform: Sharper Tools for a Smarter Recovery”

before the

SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

UNITED STATES SENATE

May 12, 2010

Federal Emergency Management Agency
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Good afternoon, Madam Chairwoman, Ranking Member Graham, and other distinguished Members of the Subcommittee. I am Craig Fugate, Administrator for the Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear before this Subcommittee to discuss FEMA's policy and program changes that have been implemented to improve the delivery of disaster assistance.

As the former director of the Florida Division of Emergency Management, I have been a customer of FEMA's services and programs, and I have focused much of my attention as Administrator on improving the way FEMA does business with other levels of government.

Part of that focus has been on simplifying the perceived complexity of FEMA's program guidelines. We are examining our policies and how they have been interpreted and implemented to ensure that the goals of the Stafford Act and the Post-Katrina Emergency Management Reform Act (PKEMRA) are being met.

We have established an internal working group, comprised of senior Recovery Directorate program staff who possess vast institutional knowledge and have experience with the intricacies of FEMA's programs and policies. The working group is responsible for reviewing our policies and proposing changes to them to ensure we are maximizing the flexibility of the Stafford Act. This initiative is the first step to better serve our customers by providing more consistent and timely direction and assistance.

Internal Policy Review

The Recovery Directorate includes the Individual Assistance Division, which administers assistance provided to individuals and households, and the Public Assistance Division, which administers the assistance provided to affected states, local governments, Indian tribes, and certain private nonprofit organizations. As a standard practice, all Recovery Directorate disaster assistance policies are reviewed on a three-year cycle to ensure the program addresses the needs of applicants and states, and captures lessons learned from previous disasters.

To better meet the needs of grant applicants and states, FEMA recently completed an aggressive review of all disaster assistance policies in the Individual Assistance (IA) and Public Assistance (PA) Divisions apart from the three-year cyclical review, to ensure that we are providing these entities with the most appropriate and effective guidance. We also sought to identify policies that may be more restrictive than the law and regulations require and to ensure that none of the policies maintain this restrictiveness or are in conflict with each other. In addition, an effort was made to identify any current policies that provide procedural information that could be better provided in a different form, such as a Standard Operating Procedure (SOP). Today, based on this review, what is currently written in the form of a policy that contains solely procedural elements may be revised, rescinded, or converted to an SOP or other nonpolicy guidance document.

Just since January, we have reviewed and evaluated 84 disaster assistance policies. More specifically:

- The Individual Assistance Division reviewed 29 policies and determined that:
 - four policies should be converted into SOPs
 - two policies should be converted into regulations
- The Public Assistance division reviewed 55 policies and determined that:
 - four policies should be converted into SOPs
 - one policy should be converted into a fact sheet
 - four policies should be converted into regulations
 - eight policies should be revised

Additionally, the PA policy review identified several changes within existing statutory authority to streamline and enhance implementation of the PA program.

This disaster assistance review also addressed the policy-making process as a whole. We have revised the policy review and issuance process to increase public involvement and ensure that all FEMA staff apply guidelines in a consistent fashion. Now, new and revised policies go through an extensive internal development process that includes the participation of program staff in the regional offices and headquarters staff offices, such as the Office of Chief Counsel and the Office of Policy and Program Analysis. In addition, except in emergent situations, all revised Recovery Directorate disaster assistance policies are posted in the Federal Register for a 5- to 30-day public comment period to give key stakeholders an opportunity to provide their input. Following that period, comments are adjudicated and policies are updated accordingly. A notice of the final policy is also published in the Federal Register, and the effective date of the policy may be delayed, as appropriate, should training or changes in equipment utilized to implement the program be needed to properly implement the changes. The end result of this process is a set of policies that are clear, concise, and understandable by both applicants and FEMA employees.

It should be noted that the public comment process is not the only opportunity for key stakeholders to provide input regarding FEMA's policies and guidelines. We routinely receive feedback from state and local governments, members of Congress, federal advisory committees, and individual Americans through a variety of channels. We make every effort to take that feedback into consideration when performing a review of our policies.

I will now briefly describe both the recommendations of several reports to improve the public assistance program, and FEMA's responses.

The National Advisory Council's (NAC) Stafford Act Recommendations

The NAC, which is comprised of state and local emergency managers, as well as subject matter experts from the private sector and non-governmental organizations in related fields, was created in the PKEMRA legislation. It serves as an advisory board and develops recommendations highlighting potential areas of improvement and recognizing best practices that can be implemented.

Since first forming subcommittees shortly after establishment, the NAC has had a group that is dedicated to reviewing Stafford Act issues. In 2008, the NAC solicited input from a wide variety of stakeholder organizations on regulatory, policy or statutory changes they would like to see made in the statute. In addition to providing input and recommendations on key public and individual assistance issues identified by FEMA, the NAC's Response & Recovery Subcommittee, which has a dedicated Stafford Act Working Group, continues to work through the many diverse issues identified by these stakeholder groups as they consider future recommendations. The NAC has placed priority on identifying areas where changes in the PKEMRA-implementing regulations and policy can most quickly and directly result in greater flexibility in providing assistance.

The NAC's recommendations are routinely reviewed by FEMA program policy staff when performing a policy or process-related review. Although NAC members are experts in their field, FEMA staff is routinely invited to attend NAC meetings to provide clarity on FEMA's programs and policies and updates on ongoing activities to ensure that the NAC has the latest and most relevant information on any topic being discussed.

The U.S. Conference of Mayors' Report of the Stafford Act Reform Taskforce (Mayors' Report)

The Mayors' Report provides dozens of recommendations regarding potential improvement to the flexibility and timeliness of FEMA's programs and policies, many of which have been or are currently under consideration in this policy review, and are consistent with some of the recommendations submitted previously by this Subcommittee. I have listed some of the recommendations presented in the Mayors' Report, along with the status of our current consideration of that recommendation.

- **Allow grantees and subgrantees to be reimbursed for insurance deductibles as an eligible cost, thus rescinding a policy change that limited deductible recovery to a one-time event** – FEMA has revised its policy (Fact Sheet 9580.3, *Insurance Considerations for Applicants*) to state that following a second disaster of the same type that caused previous damage to the facility, FEMA will not reimburse the applicant for the deductible up to the amount of eligible damages incurred in a previous disaster. However, if the state insurance commissioner certifies that insurance with a smaller deductible is not reasonably available, FEMA will reimburse the deductible following the second disaster.
- **Permit removal of slabs and foundations on grade as an eligible demolition expense** – FEMA is reviewing this recommendation and potential revisions to current policy (Recovery Policy RP9523.4, *Demolition of Private Structures*).
- **Cover increased operating costs associated with the disaster** – FEMA is reviewing this recommendation and potential revisions to current policy (Recovery Policy RP9525.4, *Emergency Medical Care and Medical Evacuations*).

- **Develop timely, neutral, separate third-party appeals process** - The American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5, established an option for arbitration under the PA program in lieu of the standard appeals process for award determinations related to Hurricanes Katrina and Rita. FEMA will review the results of the arbitration process for Hurricanes Katrina and Rita to determine whether it accelerated applicants' recovery and would be appropriate to implement in other disasters.

DHS Inspector General (IG) Report 10-26: Assessment of FEMA's Public Assistance (PA) Program

The IG's review of FEMA's PA programs and policies as performed in IG Report 10-26 provides insight into specific items that may merit potential further clarification or development. FEMA is currently implementing many of the recommendations included in the report. The PA Division is:

- Developing guidance for use during transition between program staff in the field to ensure consistency and maintenance of project documentation.
- Finalizing the PA Operations Manual to provide staff with comprehensive guidance on the implementation of the PA Program, from response operations and Preliminary Damage Assessments through monitoring and closeout.
- Reviewing recent disaster data, through which FEMA will develop metrics to assess timeliness of PA funding and closeouts by magnitude of disaster, so that metrics for large-scale events can be assessed specifically.
- Evaluating the Hurricanes Katrina and Rita arbitration process later this year to determine if it accelerates applicants' recovery and whether it would be appropriate to implement that process in other disasters.

PA has also established a system for tracking appeals, both at headquarters and in the Regions.

With regard to FEMA personnel and staffing issues, in 2008, FEMA initiated an effort to develop standardized credentialing plans for all of the agency's cadres, consistent with the IG recommendation. While Regions generally deploy disaster workers from within their own Regions, FEMA's intention is to memorialize this practice in nationwide policy. FEMA has also launched a Strategic Workforce Planning Initiative to define the objective for the size, structure and composition of the agency's workforce. Additionally, FEMA has developed a draft SOP to provide guidance on how to efficiently hire staff locally to augment the Disaster Assistance Employee workforce for longer-term PA operations.

Lastly, with regard to Environmental and Historic Preservation (EHP) issues, FEMA will provide guidance to field staff to encourage use of an EHP Management Plan in each disaster to provide the general strategy and approaches for addressing a disaster's EHP compliance and to

identify opportunities to streamline EHP reviews. FEMA is revising and updating EHP training to incorporate elements of the EHP SOP. FEMA will continue to explore working with other agencies on the establishment of time limits for EHP reviews where those opportunities are available; further, FEMA will continue its efforts to establish performance metrics as a way to provide transparency for the EHP review process, including the time it is taking for review. As suggested in the IG report, FEMA will make its EHP programmatic agreements more transparent by posting them on FEMA's website, www.fema.gov, and referring to them in FEMA guidance documents.

Pilot Programs

Sections 689i and 689j of PKEMRA authorized FEMA to establish and conduct pilot programs under the PA program to reduce federal costs of providing assistance to state and local governments; increase flexibility in grant administration; and expedite the provision of assistance to states and local governments.

We received positive feedback from stakeholders on the pilot program regarding simplified estimates for projects, increased flexibility in rendering assistance, debris management incentives for planning, and increased cost-share.

In addition, FEMA conducted a pilot program under the IA program as well, the terms of which were consistent with recommendations provided by this Subcommittee. Section 690i of PKEMRA authorized FEMA to establish and conduct this pilot program to fund repairs to existing multi-family rental housing units in order to provide timely and cost-effective temporary housing to individuals and households affected by a disaster.

FEMA determined that a repair project was cost-effective if the total federal contribution to the project was less than the cost of providing manufactured housing. We used the acquisition costs of manufactured homes (the acquisition cost of the manufactured home was apportioned to the number of months of the potential contract), the installation costs of manufactured homes at a private site distributed over the term of the contract, and the estimated monthly maintenance costs of the manufactured homes in the cost effectiveness analysis. FEMA compared the total projected cost for providing manufactured homes to the total projected cost for repairing the multi-family units and providing the owner with an operating payment.

FEMA implemented the pilot program in two disasters of different incident types, for two properties that provided housing for a total of 39 households. The total estimated cost for the Iowa pilot project was \$76,854. The estimated cost of providing seven manufactured homes for an equal period of time was \$439,376. The total estimated savings to the government is \$362,522, or 83 percent less than the cost of providing manufactured housing. The total estimated cost for the Texas pilot project was \$897,358. The estimated cost to provide 32 manufactured homes for an equal period of time was \$2,650,624. The total estimated savings to the Government is \$1,753,266, or 66 percent less than the cost of providing manufactured housing.

Since the implementation of the pilot, we have learned that damaged apartments can be repaired quickly. After a disaster, before we move too far into a full direct housing operation, we are now taking a more critical look at the available existing resources and potential rental resources in and around the disaster area. During the pilot, we learned that owners of multi-family units can be motivated to do repairs if they see that there is a demand for rental units and that there are renters anxiously awaiting the units to come online. We also learned that if we stop to do an analysis of the available existing resources, we may be able to bring existing resources online more quickly and less expensively than implementing a full direct housing mission, thereby supporting the local housing market and economy, but most importantly, meeting the housing needs of the disaster survivors.

Conclusion

FEMA's process of reviewing and adjusting—or even eliminating—policies is an ongoing process. Due to the evolving and unique circumstances of each major disaster, we must continuously work to ensure that our policies are consistent with the Stafford Act, and maximize the tools available to us under the Stafford Act in order to effectively respond to the needs of individuals and states following a major disaster.

Thank you for the opportunity to testify on the effectiveness of FEMA's policies under the Stafford Act. I look forward to answering any questions you may have.



STATEMENT OF MATT JADACKI

DEPUTY INSPECTOR GENERAL

OFFICE OF EMERGENCY MANAGEMENT OVERSIGHT

OFFICE OF INSPECTOR GENERAL

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

U.S. SENATE

MAY 12, 2010



Good afternoon, Madam Chairman and Members of the Subcommittee. My name is Matt Jadacki and I am the Deputy Inspector General for the Department of Homeland Security (DHS), Office of Inspector General (OIG), Office of Emergency Management Oversight (EMO). Thank you for the opportunity to discuss federal disaster assistance provided by the Federal Emergency Management Agency (FEMA) through the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)*.

I would like to begin my remarks by briefly outlining the views of the DHS Office of Inspector General regarding the *Stafford Act* and potential amendments to it. Then, as requested, I will spend the balance of my time discussing our recent report, *Assessment of FEMA's Public Assistance Program Policies and Procedures*¹.

The *Stafford Act* was enacted by Congress in 1988 and has been periodically amended since then. Much of the detail of how disaster assistance is handled, however, is governed by regulations and policies that derive from the *Stafford Act*. We contend that most of the challenges facing FEMA in its administration of disaster assistance, and in particular the Public Assistance and Individual Assistance programs, can be addressed through regulations and policies and do not require new legislation. Having said that, the report that I will discuss now does include several matters for congressional consideration.

Assessment of FEMA's Public Assistance Program

My office conducted an in-depth assessment of the design and implementation of FEMA's Public Assistance (PA) Program policies and procedures. This program provides critical assistance—in the form of direct assistance and grants—to state, tribal, and local governments, as well as certain private nonprofit organizations, to enable communities to quickly respond to and recover from presidentially declared emergencies and disasters. The PA Program is administered through a coordinated effort among FEMA, grantees, and subgrantees. FEMA manages the overall program, approves grants, and provides technical assistance to applicants. Our review primarily focused on the efficacy of FEMA's policies and procedures with respect to the individuals and organizations that have to navigate them: the grantees and subgrantees. We interviewed more than 200 officials from FEMA Headquarters, FEMA regional offices, and FEMA recovery offices, and five state government offices responsible for developing and administering the PA Program. Our interviews also included officials of 14 local government entities that are PA Program grant recipients. This fieldwork was conducted across the nation, including in your home state of Louisiana, Madam Chairman; also the states of California, Florida, Mississippi, and Washington, as well as the District of Columbia. We also analyzed data on FEMA's timeliness, accuracy, achievement of performance measurements, and other key areas of the PA Program.

Our assessment revealed multiple challenges that significantly hinder FEMA from consistently administering the PA Program in an efficient and effective manner. These

¹ *Assessment of FEMA's Public Assistance Program Policies and Procedures* (OIG-10-26; December 2009).

challenges—upon which my testimony is focused—include: (1) untimely funding determinations; (2) deficiencies in program management; and (3) poorly designed performance measures. Although we determined that many of these obstacles derive from personnel-based issues, there are other noteworthy causes that likewise contribute to the obstacles FEMA must overcome. Consequently, we presented FEMA with 16 recommendations to improve not only FEMA's process for reviewing and approving Public Assistance projects, but the overall administration and delivery of the program. Further, we identified various alternatives to streamline the PA process and noted the benefits and concerns associated with each. We also developed 4 specific matters for consideration by Congress.

Timeliness of Funding

FEMA needs to improve the timeliness of PA funding to avoid project delays and to improve program efficiency. Such improvements should center on: (1) the appeal determination process; (2) the Environmental and Historic Preservation (EHP) process; and (3) the reconciliation of insurance settlements.

Appeal Determinations

FEMA takes excessive time to process appeals because it does not adhere to—or has not established—timeliness standards for the entirety of the appeals process, nor does it have a standardized system to track appeals. FEMA frequently rendered its appeal decisions long after the appeal was submitted; in some of the cases we reviewed, the process spanned several years. This problem is compounded because FEMA has no agency-wide system to track appeals from submission date to final determination. As a result, FEMA has no standardized means to identify delays for each appeal. This may serve to explain why some FEMA officials we spoke with were not aware of the untimeliness of the appeals process. Nearly all the subgrantees with whom we spoke expressed dissatisfaction with the process and its seemingly inherent lack of timeliness.

To address this issue, FEMA needs to:

- Establish a complete set of standards for achieving timeliness in the appeals process and adhere consistently to those standards previously established;
- Develop and implement a tracking system that records the status and timeliness of each appeal; and
- Establish a FEMA-wide mediation or arbitration process for appeals that have reached an impasse, and refer claims that have reached an impasse with FEMA's appeals system to a mediation or arbitration board.

Environmental and Historic Preservation Process

The Environmental and Historic Preservation (EHP) process has fostered significant delays in the PA Program and continues to have a negative impact on timeliness. FEMA is required to determine subgrantee compliance with applicable environmental and

historic preservation laws, regulations, and executive orders before PA funds are provided and work can begin. And although this process can be inherently time-consuming, unnecessary delays occur because FEMA does not:

- Perform EHP reviews consistently, early in the disaster recovery process;
- Triage EHP workload based on importance;
- Require formal limits for the EHP process;
- Coordinate sufficiently, and establish or simplify pre-disaster agreements, with the federal agencies involved in the EHP process; and
- Coordinate state EHP workload to mitigate duplicative efforts.

To address these challenges, FEMA should:

- Initiate and triage the EHP workload, immediately after a disaster, based on importance and not necessarily the order in which received;
- Establish and enforce formal time limits for the EHP process; and
- Coordinate the EHP process through programmatic or similar agreements with other federal agencies and state entities.

Insurance Settlements

Subgrantees encounter delays in completing work on insured structures as a result of monetary shortfalls while awaiting final settlement from their insurer, which can take years. Although subgrantees can receive advances from FEMA, many are generally not in favor of addressing cash flow problems through this option because of financial management and accountability concerns. One solution is for FEMA to provide funding for projects that will later be covered by insurance proceeds, when the subgrantee and the insurer agree to subrogate all applicable funds to FEMA upon settlement.

Program Management

Another area that could benefit from improvement is FEMA's management of the PA Program. Impediments to successful program management include:

- Delays and excessive administrative efforts resulting from FEMA's inconsistent determinations on project eligibility;
- Inaccurate cost estimation or scopes of work in the initial documentation that can create the need for a significant number of time-consuming and labor-intensive revisions;
- Deferral of decisions that can preclude timely site inspections and reviews that would determine cost eligibility more reliably, thereby subjecting subgrantees to risk that cost and scope changes will ultimately be determined ineligible;
- Insufficient detail on scopes of work that can causes delays when grantees require that the project scope of work exactly match the cost documentation;
- Negotiations with subgrantees on eligibility, whereby subgrantees are subjected to deal-making instead of decisions based on formal criteria;

- Repetitive documentation requests that can impose a significant administrative burden on all parties, as well as generate project delays;
- Inconsistently applied local building codes and standards that can result in appeals and delays;
- Unidentified or misinterpreted PA Hazard Mitigation work eligibility that can result in untimely or inaccurate funding determinations after work has been completed, thereby effectively preventing the subgrantee from performing eligible mitigation work; and
- Undefined methodology for cost estimates involving “reasonableness.”

I will not take the time to discuss these challenges in detail but would be happy to come back to them during the time for questions. I do, however, want to talk about some underlying causes.

Employee Turnover, Inexperience, and Limited Training

The issues I just listed are caused principally by turnover, inexperience, and limited training within FEMA’s disaster workforce. Because FEMA’s workforce is drawn nationwide from permanent employees, intermittent employees, and contractors, these staff—generally assigned to areas away from their homes—may lack the commitment for long-term assignments, as well as knowledge of critical local issues, such as contractor availability and pricing. Further, FEMA sometimes transfers these employees to other disaster sites before the recovery process is completed at the site to which they were initially assigned. This results in a “revolving door” effect and has been exacerbated because FEMA has not established permanent offices in those states most vulnerable to recurring, large-scale disasters. It has also been affected by tax implications and federal annuitant offsets for extended temporary duty, essentially disincentivizing employees from continuing their employment in a stable, long-term capacity.

Another area of concern is the lack of sufficient experience and training throughout FEMA’s workforce. Following a disaster declaration, FEMA employs many local, intermittent, and contract personnel who may have little experience in, or knowledge of, FEMA’s PA Program policies and procedures. These employees do not receive formal training until after a disaster has occurred, and even that training provides only basic classroom instruction—sometimes delivered by temporary personnel, as well.

FEMA has identified several areas of planned improvement in its personnel system, including a standardized, web-based credentialing system—designed to assure that employees deployed to a disaster are qualified to perform their duties—as well as a single resource that includes all of FEMA’s PA publications and policies. FEMA testified before the U.S. Congress in 2007 that such improvements are forthcoming. However, although that position was reiterated to us during the course of our fieldwork, we have yet to see any of these ideas finalized and implemented.

To address these personnel-related issues, FEMA needs to:

- Restructure its workforce into sufficiently staffed regional cadres, and deploy personnel only to the geographic area in which they reside (unless a nationwide deployment in response to a catastrophic disaster is necessary);
- Develop a recruitment plan to target local candidates when long-term disaster recovery efforts will be needed;
- Require that project officers document project activity and ensure that all information is conveyed to their successors during the recovery process—consistent with their responsibilities outlined in federal regulation;
- Expedite the implementation of a standardized credentialing system; and
- Expedite the completion and dissemination of consolidated PA guidance.

Further, we suggest that the U.S. Congress consider providing: (1) authority for an extension or waiver of annuitant and residency stipulations as they affect FEMA disaster personnel assisting the response and recovery efforts for large-scale disasters; and (2) funding for FEMA to establish a permanent, full-time cadre of professional trainers who will comprehensively educate all FEMA disaster personnel prior to, and independent of, a disaster.

Performance Measurement

FEMA's performance objectives and performance measurement methodology—centered on timeliness and customer satisfaction—need to be clarified and improved to produce more meaningful and useful results.

FEMA's current methodology for measuring how timely FEMA obligates funding after a disaster declaration does not assure meaningful results because it gives equal weight to all disasters, regardless of magnitude. Thus, an inability to fund larger, more complex, disasters in a timely manner could be obscured by timely performance in funding the far more numerous, but less complex, smaller disasters. For example, if FEMA obligates funding in a timely manner for nine small disasters, but does not achieve timeliness for a large-scale disaster, its current performance assessment methodology would indicate that FEMA was 90% successful.

Another performance objective revolves around FEMA's ability to close disasters in a timely manner. However, FEMA's National Emergency Management Information System (NEMIS) does not include a function that can perform this measurement. FEMA officials told us that the next-generation system (the Emergency Management Mission Integrated Environment, or EMMIE) will include this functionality for all current disasters entered into its system. Nevertheless, a similar problem exists with this objective, as in the prior one, in that it does not differentiate between disaster magnitudes. As such, FEMA's ability to close small disasters in a timely manner may obscure the untimely closeout of large-scale disasters.

FEMA's last performance objective centers on customer satisfaction. However, FEMA has not measured its performance in this respect due to the suspension of data collection pending the request for, and the Office of Management and Budget (OMB) approval of,

FEMA's customer satisfaction survey. Although OMB has recently provided approval for the survey, as currently planned, the measurement of this objective will make no distinction between the views of those subgrantees with varying degrees of damage. Thus, higher customer satisfaction with FEMA's performance on many smaller disasters could obscure customer dissatisfaction on large-scale disasters.

More meaningful performance measurement could be achieved if FEMA introduced weighted measures to differentiate between disasters of different magnitudes when assessing timeliness of funding and close-out, as well as customer satisfaction.

To ensure that the results of FEMA's measurements of performance objectives are meaningful, Congress may want to consider providing criteria for FEMA to use in categorizing disasters by magnitude (such as small, large, and catastrophic, etc.).

Alternatives to Streamline the PA Process

We identified various alternatives that could be employed to streamline the PA process. Although these alternatives represent opportunities to improve the program, each alternative presents drawbacks. Those alternatives that we explored include:

- Negotiated settlements for: (1) all projects; (2) permanent categories of work; and/or (3) small projects only. This alternative would change the present reimbursement (and document-intensive) process to a fixed, lump-sum negotiated settlement between FEMA and the grantee and subgrantee, based on FEMA's estimates of damage and cost, in conjunction with pertinent information provided by the subgrantee. These estimates would be binding and would not be subject to change for any reason. Moreover, the settlement(s) would be completed no later than 6 months after the disaster declaration. The advantages of negotiated settlements are that: (1) the subgrantees' cash flow would significantly improve early in the recovery process, resulting in reduced project delays; (2) administrative efforts at all levels would be greatly decreased, resulting in significant time and money savings for all; and (3) there would be a reduction in state and local administrative requirements, and thus a reduction in administrative fees paid to the grantee and subgrantee. Drawbacks would exist, nonetheless: (1) FEMA's estimates for the negotiated settlements will likely differ from actual costs, resulting in possible shortfalls or windfalls to the subgrantee with no recourse for either party; and (2) subgrantees may decide to not complete some of the disaster projects, and could instead use that funding for other purposes.
- Increase the *large project* threshold while maintaining the current reimbursement process. This would result in a significant increase in the number of projects classified as *small* projects. The PA Program differentiates between *small* and *large* projects based on costs. That threshold is increased annually, based on the Consumer Price Index. Funding for projects classified as *small* is generally final, and full payment is available upon approval of the original estimates (although projects are subject to final audit and inspection). The advantages for increasing

the *large project* threshold are that: (1) administrative efforts and costs for all parties would be reduced based on the streamlined process for small projects; and (2) subgrantees' cash flow would improve because they would not need to incur costs prior to receiving payment, unlike for projects classified as *large*. The drawbacks are that under the *small project* criteria, subgrantees retain any excess funding for all combined *small projects* due to overestimates of costs, whereas excess *large project* funding must be returned to the federal government.

- Replace some grants with mission assignments. This alternative would change the system for designated categories of work—such as debris removal—to a prescribed system of tasking and funding other federal agencies (such as the U.S. Army Corps of Engineers) to perform the work. The advantage of this alternative is that: (1) grantees and subgrantees would avoid the oftentimes cumbersome documentation, reimbursement, and closeout requirements of the current system; (2) experienced federal agencies would be responsible for the work, thus increasing the likelihood of improved efficiency and quality control; (3) contracting resources may be greater, resulting in faster completion of projects; and (4) administrative costs paid by FEMA to grantees and subgrantees would be decreased. An anticipated drawback would be subgrantees' reluctance to reduce control over work performed within their jurisdictions.
- Transferring other federal disaster programs to FEMA. This alternative would entail Congress permanently authorizing FEMA to assume responsibility for all federal disaster projects that involve significant hazards to life and property. Currently, other federal agencies perform work that—if delayed—could affect public safety and property. Thus, this alternative would: (1) mitigate against risks to life and property by creating the potential for a more immediate response; (2) relieve subgrantees from the burden of learning, and adhering to, various rules and procedures of other federal agencies in the aftermath of a disaster; and (3) reduce subgrantees' costs through economies of scale and increased efficiency by having fewer contracts for similar work. Nevertheless, this alternative may potentially yield less funding for subgrantees because of FEMA's cost-share provisions.
- Interval payments. This alternative would entail the automatic disbursement of funding to subgrantees at specified intervals of the recovery period based on project estimates—as opposed to the present system of requesting cash reimbursements after costs are incurred. At closeout, FEMA would reconcile eligible project costs with the amount disbursed and determine a final settlement with the subgrantee. This alternative would: (1) lessen the administrative requirements for the grantee and subgrantee because those requirements would be reduced as a result of the need to process only a few large payments instead of numerous payments; (2) reduce grantees' responsibility for ensuring that subgrantees' reimbursements are accurate; (3) improve subgrantees' cash flow early in the recovery process; and (4) reduce administrative or management fees based on a reduction of state and local administrative efforts. However, automatic

payments based on estimates would require a subgrantee to repay FEMA at project closeout for the amount of interval payments that exceeds actual costs on recovery activities, which could place a burden on the subgrantee if it has inappropriately expended payments.

Despite the challenges presented here, we learned that many of FEMA's customers consider the current PA Program design inherently sound. They believe the flaws are primarily in execution. Consequently, we are in agreement that most of these challenges could be significantly diminished by focusing on the fundamentals upon which the PA Program rests. To summarize, this would necessitate: (1) improving the timeliness of appeal determinations, the Environmental and Historic Preservation process, and insurance settlements; (2) reducing employee turnover and improving classroom and on-the-job training for disaster staff; and (3) improving program performance objectives and measurements. Put simply, the current system—in fact, any system—is only as viable as it is consistently and competently implemented. If FEMA can address these fundamental challenges, it can then move to program enhancements that will speed the recovery process in disaster-affected areas

Madam Chairman, this concludes my prepared remarks. I welcome any questions that you or the Members may have. Thank you.



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Statement by
Joseph P. Riley, Jr.
Mayor of Charleston

before the

Ad Hoc Subcommittee on Disaster Recovery
Committee on Homeland Security
and Government Affairs
United States Senate

May 12, 2010

Chairwoman Landrieu, Ranking Member Graham, members of the Subcommittee, I am Joe Riley, Mayor of Charleston, South Carolina. I am a Past President of the U.S. Conference of Mayors and a member of its Stafford Act Reform Task Force. I am honored to have the opportunity to appear before you this afternoon to discuss badly needed reforms to the Stafford Act.

Let me first acknowledge the efforts of former New Orleans Mayor C. Ray Nagin, who chaired our Stafford Act Reform Task Force. Under his able leadership and that of our Vice Chair, Sacramento Mayor Kevin Johnson, our Task Force did a remarkable job of identifying the various Stafford Act provisions which caused problems for local officials trying to prevent, mitigate, and respond to disasters, and of developing recommendations intended to solve those problems. In the difficult period since Katrina, Mayor Nagin amassed a wealth of knowledge about what needs to be done to improve this nation's responses to disasters. Through the Task Force he has passed along that knowledge to all of us, and for that we are most grateful.

I must add, Madame Chair that I am looking forward to working closely with the new Mayor of New Orleans on this and other issues critical to U.S. cities and their residents. It's good to have a Landrieu back at New Orleans City Hall. He will be a great asset to his city and to the U.S. Conference of Mayors.

In January the Conference of Mayors adopted a policy resolution which incorporates the recommendations of the Stafford Act Reform Task Force. This means that the recommendations included in the Task Force report represent the official policy of the U.S. Conference of Mayors. I would like to submit a copy of that report for the record.

This afternoon I will focus on five critical recommendations which we encourage you to include in your Stafford Act Reform bill:

- **Provide special designations for catastrophic disasters.** Current policy treats all disasters the same, even though a storm like Hurricane Katrina is far more devastating than others. The nation's disaster response system must be capable of recognizing this and shifting to a much higher level of assistance when catastrophic events occur.
- **Eliminate red tape that stymies recovery efforts.** The current federal Hazard Mitigation Grant Program – intended to help communities rebuild in stronger and safer ways– is mired in red tape and bureaucracy. This delays delivery of recovery funds and dilutes their impact. The program must be streamlined and adequately funded.
- **Increase support to host communities.** In the wake of disasters, neighboring communities incur extraordinary costs providing housing and support to displaced disaster victims. Their efforts should be applauded, not penalized. Federal dollars must flow more quickly to compensate host communities for the full cost of their efforts.
- **Increase caps on disaster loans.** Local governments suffer substantial revenue losses in the wake of major disasters. After Katrina, the entire economy of New Orleans was shut down. Distressed cities need an infusion of operating funds to maintain basic services to all their residents. The current Community Disaster Loan program provides such funds but is capped at only \$5 million - an amount that can be far below real revenue losses following a disaster. Loan amounts should fully offset the losses communities actually experience.

- **Move recovery dollars directly to cities.** The bureaucracy that failed the City of New Orleans at every stage of the Katrina disaster must be streamlined. Precious time is lost in delays caused by moving funds through too many bureaucratic layers. We need a more flexible system that allows federal funds to bypass state bureaucracies and move directly to the local governments working to rebuild their communities.

CATASTROPHIC DISASTER DESIGNATION

Recommendation: *Provide for catastrophic disaster designation to speed up funding availability and recovery*

We understand that one of the major barriers to recovery from Hurricane Katrina has been the lack of differentiation among disasters and the inability to designate those that are “catastrophic” and cause extensive and widespread damage and destruction. Events such as Hurricane Katrina are so great in scope and effect in more than just a local jurisdiction or region that they require special consideration for the response and recovery efforts. Unlike disasters which strike a limited area within a city, Hurricane Katrina left 80 percent of New Orleans under water and caused tens of billions of dollars in damages. The damage to other parishes in the region was also severe in some cases. The entire economy of the United States was affected by the event.

The Stafford Act should be amended to differentiate “catastrophic disaster” as one which has a more devastating impact than a “major disaster.” Catastrophic events are currently defined in the National Response Framework as “any natural or manmade incident, including terrorism that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions.” A formula should be developed to determine if a disaster meets the criteria for catastrophic designation.

The Catastrophic designation would trigger special procedures to give the President authorization to expedite the repair, restoration, reconstruction or replacement of eligible facilities. While we believe this would be a valuable addition, we propose a catastrophic designation that would trigger a number of actions, as outlined in our Task Force report. Among those actions are the following:

- Give the President the authority to waive Stafford Act provisions and regulatory compliance following a catastrophe;
- Provide automatic 100 percent federal funding for all categories of eligible work for the duration of a disaster. Because the Stafford Act requires cities to pay a portion of the cost of emergency services, such as debris removal, New Orleans began seeking 100 percent funding for these costs immediately after Katrina hit. This funding was necessary in order to assure that the City could meet these needs, despite its depleted budget and non-existent economy. In a special Katrina and Rita fix, Congress approved 100 percent funding for eligible costs but not until May of 2007. This special relief would not be in place for a future catastrophic event.
- Mandate the immediate release of federal funding for 50 percent of the Preliminary Damage Assessment (PDA) estimate for all grant programs. Currently it can take 60 to 90 days to access “Immediate Needs Funding” and it is not available for initial recovery work on critical infrastructure, including public safety facilities and equipment. In devastated cities, there is no

money available to sustain operations and other costs while waiting for this period. This leads to unnecessary layoffs and delays in contracting that leaves the municipalities unable to move forward with critical services.

- Establish a 90-day “hold harmless” period for the procurement of goods and services at the beginning of a disaster so that local and state governments can respond quickly to meet urgent needs. After Hugo when we needed generators in Charleston, FEMA said they hadn't done an assessment. While FEMA now encourages pre-disaster contracting for anticipated needs, we believe that there should be a hold harmless period for unforeseen urgent needs, pointing out that in catastrophic disasters especially, every second counts.
- Lengthen and align deadlines for all grant categories for a minimum of one to five years based on the requirements of the grant program. For example, Emergency Work should be extended to one year and Hazard Mitigation should be extended to a minimum of five years to allow the affected communities time to plan, recover, and rebuild. Then after the initial period of stabilization, extensions could be applied if needed.
- Assure that all modalities of mental health treatment (in addition to Crisis Counseling Assistance and Training) are available and funded to provide psychiatric services and medications to the affected population. In catastrophic events, the personal lives of huge segments of the population are in crisis; damage to the basic health and mental health infrastructure will prevent adequate help from being provided to meet the severe and prolonged mental health needs in the affected communities. Mental health services also need to be provided to long-term evacuees in their host communities.

HAZARD MITIGATION GRANT PROGRAM

Recommendation: *Adequately fund and streamline the Hazard Mitigation Grant Program*

Hazard Mitigation is an important part of any recovery because it has proven to be effective in reducing property damage, costs of repair and replacement, and loss of life. The Federal Emergency Management Administration's (FEMA) Hazard Mitigation Grant Program (HMGP) provides funding to assist communities to implement long-term hazard mitigation measures as they repair or rebuild following a disaster. Public facilities, critical infrastructure, and private homes and businesses can be retrofitted and hardened with the grant dollars made available after a disaster. New construction and development patterns can follow best practices to prevent the waste of future resources for repairing what could have been mitigated. A Congressionally mandated study for FEMA estimated that \$4 can be saved for every dollar spent to mitigate.

Many cities have called for changes in the Hazard Mitigation Grant Program. More funding should be made available for hazard mitigation after a disaster and there should be more funding and financial incentives for hazard mitigation programs in communities that are at high risk. The funding must be available more quickly and should be awarded directly to cities with a proven capacity to administer them – Community Development Block Grant entitlement communities. Additionally, the entire hazard mitigation grant process should be streamlined so that less funding is spent on complex and bureaucratic administration and more on the actual construction of safer structures. Some of these changes can be

accomplished administratively, and the Obama administration is working on some of these issues. Some changes require legislative action.

Among the recommended changes to the program which are essential to saving future costs, property, and lives:

- Provide the President with discretion to increase the federal cost share to 100 percent for hazard mitigation, as in other disaster programs. This is particularly important for communities that have experienced catastrophic destruction where neither the agencies nor the residents are able to financially afford the match but have great need and opportunity for mitigation.
- Direct hazard mitigation funding to the impacted community in proportion to the damage done by the event. New Orleans has received less than its proportionate share of grant dollars and has had to compete within the state for funding beyond the original allocation offered by the state.
- Make initial hazard mitigation funding available immediately, based on the Preliminary Damage Assessment (PDA) estimates. Cities across the country have noted that the program is too slow. By providing dollars immediately based on PDAs, communities will be able to more quickly help their citizens who are trying to make critical decisions about their homes and lives, and will be able to invest in mitigation measures more expeditiously.
- Require 75 percent of the allowable administrative costs to be provided by the grantee to the subgrantees as funding for their implementation costs or as services performed by the grantee for jurisdictions without administrative capacity. If a city is funded through the state for HMGP, it should receive a reasonable amount of the administrative funding to effectively implement and monitor the program. One recent grant was awarded with an administrative allowance of less than one per cent, which is not enough to administer and monitor appropriately.
- Increase the amount of Hazard Mitigation Grant Program funding by four percent of the estimated aggregate amount of the grant for both state and local jurisdictions that have building codes consistent with or more stringent than the most recent nationally recognized model building codes if adopted within six years of the most recent version of that code. States and communities should be rewarded for adopting and enforcing safer building codes.
- Permanently adopt the Demolish-Rebuild (Pilot) Program developed after Hurricanes Katrina and Rita and make it an eligible activity under HMGP. Current law favors that demolished property be bought out and turned into green space permanently, which is not practical in the middle of cities. The pilot allows mitigation funds to be used for rebuilding safely on a lot where a damaged structure has been demolished. This pilot program should become permanent law.

INDIVIDUAL AND HOUSEHOLD ASSISTANCE

Recommendation: *Allow for 100 percent reimbursement for affected communities and host communities for personnel costs and lost revenue incurred to manage and implement assistance for evacuees.*

In the wake of disasters, neighboring communities and those in other states incur extraordinary costs for providing housing and support to displaced disaster victims, as well as by sending assistance to the community experiencing the event. Their efforts should be applauded, not penalized. Federal dollars must flow more quickly to compensate these communities for the full cost of their efforts.

Fort Worth provides an excellent example of how host cities are being impacted by the current law and regulations. The State of Texas has designated the Fort Worth/Dallas Metroplex as the host area for Harris County (Houston) citizens who evacuate in the event of a hurricane. Whenever Fort Worth operates shelters, it incurs significant expenses in permanent employee straight-time salaries. However, under current law, only overtime spent on disaster response by permanent employees is eligible for reimbursement from FEMA. In the case of Fort Worth, these straight-time expenses are borne by its citizens, thus putting the City in the position of underwriting the costs for people who live on the coast, hundreds of miles from Fort Worth. During Hurricane Katrina and Hurricane Gustav, Fort Worth was asked to shelter evacuees from Louisiana as well as from the Texas coast.

In addition to these costs, host cities also incur revenue losses when they have to close revenue generating facilities in order to accommodate and house evacuees. To make serving as a host city more attractive and equitable, the Stafford Act should be revised to reimburse host jurisdictions for 100 percent of their lost revenue for facilities such as convention centers that are used as mass care shelters.

Host cities that participated in the work of the task force concur that it would be best for the funding to come from FEMA directly to cities rather than through the state. In late 2009, Dallas was still awaiting reimbursement from the State of Texas for host city expenses it incurred a year earlier during Hurricanes Gustav and Ike. This could be expedited by granting host cities direct standing as grantees with FEMA, rather than requiring the cities to apply to the state as an intermediary, with the state subsequently applying to FEMA.

Recommendation: *Facilitate expeditious direct reimbursement to cities that provide mutual aid by:*

- Authorizing city-to-city and/or state-to-state mutual aid agreements to immediately trigger funding and liability protection during major or catastrophic emergencies without having to wait until a formal disaster is declared and assistance is granted through the Emergency Management Assistance Compact (EMAC) system.
- In the event of a federal declaration of emergency, reimbursing costs associated with emergency protective services through mutual aid assistance from the time at which the state declared the emergency.

Recommendation: *Honor certifications and licenses across state lines – Since the provision of regional mutual aid will frequently require emergency service professionals to perform duties outside the boundaries of their home states, state-based professional licenses or certifications should be honored across state lines in the event of a disaster or emergency event.*

- Reimbursement for eligible costs incurred in providing mutual aid must be quicker and less bureaucratic in order to encourage more critically needed cooperation without penalizing those who want to help. Federal assistance with coordination across state lines and regions would encourage more cooperation.

COMMUNITY DISASTER LOAN PROGRAM

Recommendation: *Remove the \$5 million cap on the Community Disaster Loan (CDL) program – the amount available for loan funds should match the amount of revenue lost. Decisions on loan repayment or cancellation can be made after clear analysis of a jurisdiction's ability to pay back the loan in part or in full without undue hardship.*

Hurricane Katrina and the extent of the destruction forced the complete shut-down of the New Orleans economy. As a historically poor city, it did not have major reserves to which it could turn to continue basic operations. Even wealthier cities would find that a complete economic shut down seriously impedes its ability to function. We were not sure how we would make payroll so that we could to employ the people needed to continue search and rescue operations and begin the clean up and recovery process. We were also concerned about the damage to our credit rating and defaulting on public bonds. Unfortunately, the main operational relief offered by Stafford is the Community Disaster Loan program, which is not only slow but inadequate for a major American city that has experienced a catastrophic disaster. Its \$5 million cap and limit of up to 50 percent of revenue loss means that a community in the throes of an emergency must wait for the slower processes of legislative relief to have a reasonable amount of funding made available.

Through Congressional legislation in October of 2005, the \$5 million cap on the Community Disaster Loans was lifted for Katrina and Rita, but Presidential discretion for forgiveness of these special loans also was taken away. In October of 2006 – over a full year after the event -- Congress provided the City and other affected entities the authority to borrow up to 50 percent of annual revenue loss for operating. Then, in May 2007, Congress reinstated the President's discretion to forgive the loans.

DISASTER ASSISTANCE PROGRAMS

Recommendation: *Give grant standing to local jurisdictions that are CDBG Entitlement Communities – Local governments that are Community Development Block Grant entitlement communities should have standing as grantees for all disaster grant programs so that they may deal directly with the federal government.*

Mayors are on the front lines of efforts to mitigate, respond to and recover from disasters. Our residents look to us for speedy action and for reassurance that their lives and communities will quickly return to normal. Yet, current law denies us the ability to access federal resources directly, requiring instead that we work through state governments, which are often grappling with their own disaster response efforts. We are left in the impossible position of being responsible to our constituents without having the authority or resources to adequately respond to their needs.

The possibility of natural and man-made disasters in other cities means that this is an issue that Congress likely will face again. Our citizens will be best served if the dollars are immediately available at the level of government closest to them – the city government level. This will allow the speedy action residents expect and deserve. In the process, the costs of providing these grants will be greatly reduced with the elimination of the additional level of bureaucracy.

Further, assistance programs should be changed to cover both regular and overtime pay for the work performed by state and local public employees such as first responders, building inspectors, healthcare professionals, and sanitation workers following a disaster. The scope and scale of emergency work performed in response to a disaster is often well outside any emergency personnel's regular call of duty

and should be reimbursed in the same manner as permanent work. To provide fiscal relief and reduce administrative costs, any work performed that qualifies as eligible under emergency protective measures or debris removal should be fully reimbursed, regardless of the labor category or pay rate of the employee.

OTHER ISSUES

We know there are some additional specific areas in which you are particularly interested in hearing from us and I wanted to be sure to include them in my statement.

Administrative Improvements

- It would be very helpful to local and state governments if the federal government produced a single catalog of federal disaster programs and resources that we could consult following a disaster. Navigating the maze of federal programs is a difficult task during the best of times: immediately following a disaster when we must act on so many fronts it may be near impossible.
- Being able to file a single consolidated application for federal assistance with an interagency task force of federal recovery specialists makes great sense. They could evaluate the proposal, help to identify the resources to carry it out, and speed the overall grant process.
- Stafford Act funding should be available to local and state governments for recovery planning and damage assessments. Technical assistance is helpful, but we need resources to accomplish these tasks.
- It would be very helpful if the federal government established joint field offices staffed by knowledgeable personnel with decision-making authority from key federal agencies who could provide assistance to local and state governments during both the response and the recovery phases following a major disaster.

Public Assistance

- Our report specifically recommends that up front funding be provided on the basis of preliminary damage estimates, that the small projects threshold be increased, and that insurance proceeds be subtracted from grants after they are received rather than before.
- The Public Assistance Pilot Program authorized by the Post Katrina Emergency Management Reform Act should be reinstated. It was intended to provide timely and cost-effective temporary housing to individuals and households affected by a disaster by funding repairs to existing multi-family rental housing units, and in the two instances in which it was used it did so in a cost-effective manner which preserved existing housing units.

Individual Assistance

- The President should have authority to provide assistance to individuals and households that exceeds the current statutory limit of \$30,000 following a catastrophic event. For example, our report recommends that assistance for individuals and households adequately covers meals, transportation which could include multiple moves, and hotels so that evacuees are not compelled to stay in shelters, further burdening host communities and that temporary mortgage

or rental payments for individuals or families who face financial hardship caused by a disaster be provided.

- We would also suggest that the rental repair pilot program authorized by the Post Katrina Emergency Management Reform Act be reinstated. Our report recommends that the President be authorized to use emergency funding for repair of permanent structures (including rental units) needed for temporary or transitional housing within the affected communities. Strategic investment in permanent repair can provide housing faster where it is most needed and prove more cost-effective in the long-term recovery of the affected community.
- Our report recommends that FEMA expedite finalization of a disaster housing plan that does not rely predominantly on travel trailers and vouchers, both of which have proven problematic. That housing plan should take into account the needs of both communities which have experienced disasters and host communities which receive evacuees, and should include provisions for adequate shelter, temporary housing, and transitional housing. Further the Department of Housing and Urban Development (HUD) should be fully engaged as a partner with FEMA in coordinating the provision of disaster housing by using funding from the Disaster Relief Fund (DRF). A standing interagency agreement between HUD and FEMA would be an excellent way of achieving this.

Disaster Recovery Block Grants

- The availability of flexible recovery block grants tied to a recovery plan and allocated on the basis of damage and unmet needs could go a long way to speeding a community's recovery when a major disaster occurs. The Community Development Block Grant program has been used in several instances to do just that. We would recommend again that the CDBG model be followed and that these block grant funds be provided directly to local governments which have entitlement status through that program.

Case Management

- For all disasters, thorough case management handled by qualified professionals – as opposed to inadequately trained temporary workers – is essential to the success of Individual Assistance and other programs that offer help to victims. It is needed to conduct outreach, expedite claims, and maximize access to assistance in the many categories that are available, including financial, housing, employment, health and mental health. It is needed to ensure that all eligible applicants, particularly those with special needs such as the elderly, people with disabilities, victims of domestic violence and families with children, receive appropriate assistance. The Stafford Act should be changed to create a national disaster case management program which provides a comprehensive approach to disaster recovery that will ensure interagency cooperation. That program should provide qualified case management personnel trained in Individual Assistance, Other Needs Assistance, and all potential grant programs for disaster victims. It is important to educate local jurisdiction staff as well as federally funded case management workers to better advise citizens on their options to receive federal assistance and responsibilities for documenting its use. This will avoid misunderstandings and better serve the affected communities.

THE SITUATION IN CHARLESTON

In 1989, when Hurricane Hugo struck the Charleston area, we knew that it was coming our way on Tuesday. It hit us on Thursday night with 135 mph sustained winds. On Thursday morning, a man appeared at our boarded up city hall which had only essential personnel there. We had successfully evacuated a large percentage of our residents early. He was brought into my office and explained that he was from FEMA and there to help us. After telling us to document all spending related to the storm, he left for Myrtle Beach and safety and we didn't see them again for days.

If we knew that this massive storm was coming, we assumed that our federal government knew the same and was taking action to assist in the aftermath, first in immediate search and rescue, initial clean up and then recovery. What happened was that we were on our own for a devastatingly long period of time.

Instead of having equipment and supplies at the ready to come in after the winds subsided, we had to wrangle with red tape and say "Mother, May I?" for every step we tried to take. Getting help from the military, the one agency most trained in immediate response, was not available.

We had no power within 100 miles, no water, no stores open, 3400 destroyed homes, 15,000 damaged homes, 75,000 people homeless and we were told that we would have to do an assessment before any assistance or relief was provided.

As a community, we prepared for the storm with the equipment and supplies that we had, doing exactly what we and everyone else should have known, that we would have to look for residents in danger, open roads and figure out a supply chain after the storm left. If we had been able to access military expertise, water trucks, generators and other critical supplies, we would have been able to help our residents faster, better and safer.

We were also left with the worry, once help began to arrive, which was...how are we going to pay for this? And the bureaucratic process for repayment of any percentage entailed tens of thousands of pieces of paper!

The problems which beset a community may be things for which it has not prepared if it has not previously experienced a disaster. Where do you dump the debris from a major hurricane? We had to use our playgrounds as temporary dump sites to clear the city before they were taken to the landfill, and these now have a shortened life span due to the amount of debris. Further our playgrounds could not be used by the children for whom they were built. Where do you house workers who come in to help with demolition, repairs and rebuilding when your residents can't find a place to live? How do you provide food, water, and other basic supplies such as baby food and diapers to your residents?

FEMA and other agencies which deal with disasters should know the answers to these questions and be prepared to act immediately.

Since 1989, some of these problems have been addressed. And for that, I am thankful. No municipal officials wish to go through a major disaster, but if they do, they should not have to face problems such as these, and all possible help and expertise should be readily available to them.

What can be improved is the process for immediate response from the federal government, an improved one which uses the CDBG model for distributing federal funds directly to municipalities in an expedited manner.

Thank you for the opportunity to testify on this important topic. We look forward to working with you to make needed improvements in the Stafford Act. I will be happy to try to answer any questions you might have.

MR. DAVID MAXWELL

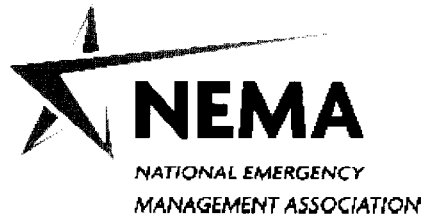
**Director & Homeland Security Advisor
Arkansas Department of Emergency Management
President, National Emergency Management Association**

TESTIMONY

**Before the Senate Homeland Security and Governmental Affairs
Subcommittee on Disaster Recovery**

Stafford Act Reform: Sharper Tools for a Smarter Recovery

May 12, 2010



**National Emergency Management Association
Hall of the States
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Introduction

Chairwoman Landrieu, Ranking Member Graham, and members of Subcommittee, thank you for the opportunity to testify today. I come before you representing the National Emergency Management Association (NEMA) and the state emergency managers of all 50 states, territories, and Washington, D.C.

As the Committee considers alterations to the Robert T. Stafford Disaster Relief and Assistance Act, overarching themes stand as priorities for NEMA which merit consideration. NEMA believes the Stafford Act should not be radically overhauled, but as is common with many pieces of significant legislation, room for improvement certainly exists. Any changes, however, should preserve the original intent of the law of allowing the President maximum flexibility in providing federal aid to a disaster response.

The Stafford Act stands as the pinnacle piece of legislation affecting the emergency management profession. The original Act was intentionally written in a broad manner to allow maximum flexibility for practitioners and discretion by the President. NEMA continues to support this flexibility. Furthermore, national need must be considered in any amendment to the Act since changes for one state or region do not necessarily translate to other areas and could present adverse effects. Should legislative changes become necessary, implementation at the state level should stand as the single most important undercurrent to any recommended Stafford Act amendments.

In recent years, we have realized most points of contention with the Stafford Act lie not with legislative mandates, but in unnecessarily strict *interpretation* and subsequent application of the law. These interpretations have led to more rigid regulations and policies not accurately reflecting the true intent of the Act. A majority of NEMA members agree the primary issue during disaster response rests not with the Stafford Act overall, but rather with disaster assistance policy.

Fortunately, FEMA leadership has recently taken strides to address these issues. Upon Administrator Fugate's confirmation, the agency was directed to undertake a full-scale review of previous policies and regulatory interpretations to determine if flexibility within the Stafford Act could be restored by internal action or if statutory changes were required. We applaud FEMA's efforts and wish to allow them appropriate time to complete their full review. This current policy review could drive and inform any

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potential need for more broad-reaching Stafford Act changes in the future. While NEMA continues to place trust in FEMA leadership during this review process, we continue a doctrine of “trust but verify” and intend to advise accordingly.

Discussions continue within NEMA regarding whether or not the Stafford Act requires amending to address catastrophic disasters, however, we remain steadfast in our belief the Stafford Act does not require broad and sweeping legislative changes at this time. Regardless of when and if the major changes are ever considered to the Stafford Act, NEMA stands united in our belief in the necessity for state governments to remain the sole source of entry for Federal assistance into the states. When devastation at the hand of a disaster occurs, it remains the responsibility of Governors and state governments to support communities by ensuring a seamless response among all levels of government. State responsibility also includes providing resource coordination in a timely and efficient manner, deploying and requesting interstate mutual aid as necessary, and implementing state and federal disaster assistance programs.

In order to effectively address the Stafford Act, we must first look at existing programs which comprise the essential base of the overall Act. Once the foundation is strengthened, I will address certain issue areas commonly arising when considering changes to the Stafford Act including recovery programs, public and individual assistance, and hazard mitigation.

Strengthening the Base

Before adding regulations to address potential changes to issue areas within the Stafford Act, existing programs require legislative attention. Without these critical programs, the emergency management community on the whole loses effectiveness in aiding post-disaster assistance. Legislation such as H.R. 3377 currently in the House of Representatives takes a significant step toward bringing many Stafford Act issues into one authorizing bill which could be an effective means by which to address these priorities. The bill also takes a tempered approach to addressing more significant Stafford Act issues.

One of NEMA’s highest priorities related to the Stafford Act remains the reauthorization of the Emergency Management Assistance Compact (EMAC). When states and U.S. Territories joined together and Congress ratified EMAC (Public Law PL-104-321, 1996), it created a legal and procedural mechanism whereby we can quickly move state owned emergency response resources, like Urban Search and Rescue (USAR) Teams, throughout the country to meet disaster needs. All 50 states, the District of Columbia, and three territories are members of EMAC and have committed their emergency resources in helping neighboring states and territories.

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To provide a sense of EMAC's value in the context of search and rescue, during the 2005 season which included hurricanes Katrina, Rita, and Wilma more than 1,300 search and rescue personnel from 16 states searched 22,300 structures and rescued 6,582 people. EMAC staff stood ready to offer support recently during the tsunami threat to Hawaii and tornadoes in Mississippi as well. Fortunately the need for mutual aid was never required in either state, but the knowledge it remains available as a state asset is invaluable to emergency response officials.

The capabilities of EMAC remain sustained by the efforts of all the states and would be bolstered by direct support of EMAC. While EMAC currently receives FEMA grant funding, fulfilling NEMA's request for a \$4 million line item appropriation would codify the program for use in future disasters. These funds provide numerous benefits directly to the states. As the opportunity is afforded, EMAC intends to develop, maintain, and exercise state and regional mutual aid capabilities, train state and local emergency response personnel who may be deployed through EMAC, support the development of specialized emergency response capabilities among the regions, and ensure EMAC remains a viable resource for the states now and in the future. In my opinion, \$4 million in federal funds stands as a minimal investment for maintaining a proven national emergency response capacity that day-to-day is equipped, trained, and ready to provide critical disaster response resources and support between states. All members of EMAC continue to rely on this asset as a critical tool in their response and recovery arsenal.

Much like EMAC, USAR Teams also provide valuable assistance in the wake of a disaster. FEMA should be provided clear authority for USAR and protecting the local department and task force members when injuries or other liabilities occur as a result from their rescue efforts. Without these protections, the local and state departments supporting the USAR Task Forces face potentially unfunded costs for sustaining these teams. USAR teams also provide a significant cost savings to the federal government since they require low annual costs, but provide high situational value after a disaster. But our responsibilities to citizens comes not only after a disaster strikes, but also in appropriate mitigation efforts before.

A lack of authorizing language and unnecessary earmarks to the Pre-Disaster Mitigation Grant Program (PDM) stands to weaken a critical emergency management program. While PDM was reauthorized for one year in the FY 2010 Appropriations bill, the program is in desperate need of a multi-year reauthorization. PDM is a valuable tool allowing states to take advantage of the opportunity to mitigate loss of life and property before a disaster occurs. In 2005, the Multi-Hazard Mitigation Council published

a study that found for every \$1 FEMA invested into mitigation projects, society saves approximately \$4. The key to the value of the programs is that pre-disaster mitigation is coordinated through the Governors and state hazard mitigation plans. We applaud the efforts of the full Committee to quickly move S.3249 to the Senate floor. This authorization bill, with the Coburn amendment discouraging earmarks, will provide states an important tool to mitigate the effects of a disaster before a disaster even occurs.

Building Upon the Foundation

Once appropriate authorizations have been addressed to strengthen the base of the Stafford Act, the time may come to build upon the foundation and explore other areas of the Act. In the wake of a significant disaster, we all too often respond by implementing new laws or regulations to address shortcomings of the impacted state or jurisdiction. In reality, however, the challenges facing one state do not necessarily translate nationwide and the Stafford Act must continue to adequately apply to the diverse range of states and disasters.

As the Committee addresses any recovery issues, we would urge caution in creating undue additional layers of bureaucracy. New task forces, coordinating councils, or federal offices cannot substitute for knowledgeable and properly trained Federal Coordinating Officers (FCO) or planning efforts states should already have in place. FEMA currently maintains a strong system of policies, procedures, and dedicated public servants to assist states. For the time being, NEMA believes any new function placed within the Agency must be complimentary to the existing system not additive. Also, we urge caution against codifying in the Stafford Act entities such as recovery offices which should be reserved for the response to significantly larger events. As an Association, NEMA would prefer to allow FEMA the time to complete the National Disaster Recovery Framework and implement some of those recommendations. The framework was developed with the extensive stakeholder outreach and once the final report is submitted in June, we would prefer to allow FEMA time to implement the new strategy.

Many issues regarding public or individual assistance can be addressed through FEMA policies and regulations. For example, FEMA already increases the small projects threshold on an annual basis. This should continue to be done through policy as there is no need to clutter the Stafford Act with such provisions. An example where legislation might be required is in the reinstatement of the Public Assistance (PA) Pilot Program. In consultations with other Congressional committees and our own Legal Committee, we believe FEMA does maintain the authority to restart this program, but FEMA has determined otherwise. Such decisions stand as an example of overly strict interpretations of existing laws.

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The PA Pilot Program ended on December 31, 2008, pending a report by FEMA to Congress. FEMA officially submitted the required report on May 20, 2009. During the pilot period, 3,965 applications in 78 disasters participated in at least one procedure of the Pilot Program. The PA Pilot Program was not an independently funded grant program, but rather a means by which to disperse funds from the Disaster Recovery Fund (DRF). This Congressional initiative could be expanded to allow FEMA to develop new programs to realize additional efficiencies and cost savings in any number of other programs.

Other public assistance issues such as advancing public assistance funds to fund emergency and permanent work or direct reimbursement for straight-time labor should not be addressed in the Stafford Act. The thresholds for public assistance are already increased annually, and any other increase should only be considered through policy. Furthermore, when response officials commit to a life of public service, we do not believe their jurisdiction should be reimbursed for labor costs.

Hazard mitigation remains a subject in which changes could be helpful, but again caution must be exercised to avoid over-stepping those initiatives states should already have in place. For example, a small advance in hazard mitigation funds soon after a disaster in order to hire staff, assess damages, and begin identifying eligible projects could prove beneficial. Additional hazard mitigation efforts, however, such as planning and program development should be completed by states well before the declaration of a disaster.

Conclusion

As you can see, the Stafford Act is a complex tool for the federal government to assist state governments in the wake of a disaster. Prudence must be practiced, however, as too many changes to the Act could dilute the original intent and create additional bureaucracies. Also, national need must be considered in any amendment to Stafford since changes for one state or region do not necessarily translate to other areas and could present adverse effects. Should legislative changes become necessary, implementation at the state level should stand as the single most important undercurrent to any recommended Stafford amendments.

I welcome any questions you may have, and NEMA will continue offering support to this Committee and your staff as any legislative effort moves forward in the process.

**Testimony of Sheila Crowley, Ph.D., MSW
President of the National Low Income Housing Coalition¹
presented to the
Ad Hoc Subcommittee on Disaster Recovery of
The Committee on Homeland Security and Government Affairs
United States Senate
May 12, 2010**

Senator Landrieu, Senator Graham, and Members of the Subcommittee, thank you for the opportunity to testify today on reform of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

I am Sheila Crowley, President of the National Low Income Housing Coalition; our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. The National Low Income Housing Coalition does not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable housing, especially those with the most serious housing problems. NLIHC is entirely funded with private donations.

Since September 2005, NLIHC has advocated for a just and comprehensive federal response to the acute housing crisis of the low income people of the Gulf Coast in the aftermath of Hurricanes Katrina and Rita. We have convened weekly conference calls of the Katrina Housing Group since the fall of 2005. Over 100 national and Gulf Coast based organizations are part of the group. NLIHC monitors federal policy as it pertains to Gulf Coast housing recovery and the future of disaster housing policy and circulates relevant news to the group two to three times a week. Our recommendations for Stafford Act reform are based on the knowledge we have gained in our nearly five years of interaction with people in the Gulf Coast states who are on the front lines helping displaced people find their way home.

Let me begin by thanking you, Senator Landrieu, for your steadfast commitment to the complete recovery of all the Gulf Coast states from the 2005 hurricanes. When it seems like much the country and the Congress have "moved on," you remain doggedly determined to make sure we honor our obligation to the people who lost their homes and their communities when Hurricane Katrina came ashore nearly five years ago. You are an inspiration to me and others who will keep doing this work for as long as it takes.

At the outset, we would like to associate ourselves with those who suggest that the current disaster response structure, which places primary responsibility on state and local

¹ 727 15th Street, NW, 6th Floor Washington, DC 20005, 202-662-1530, www.nlihc.org

governments, is inadequate in the face of catastrophes such as Hurricane Katrina.² Katrina was a weather disaster that directly affected the several Gulf Coast states, and a human disaster that affected the entire country. The Katrina diaspora can be found in every state in the union. Moreover, Katrina was a disaster of such magnitude that state and local governments were stretched beyond their capacity. The devastation and displacement caused by Katrina was so extreme that it begged for a federal authority to oversee the response and recovery.

We recommend that a priority for Stafford Act reform should be to more clearly define when a disaster is catastrophic and direct the President to intervene swiftly and comprehensively in such a case. The President has a duty to protect all citizens regardless of what state in which they happen to reside. Therefore, the President must have the authority to step in and take control. States vary considerably in their capacity and willingness to respond to emergencies in a manner that treats each of their residents fairly. U.S citizens must be guaranteed equal treatment in a disaster no matter who their governor might be.

The remainder of my remarks today will focus on general recommendations on Stafford Act reform, primarily on temporary housing and case management. We will submit more extensive and detailed recommendations for the record within the next thirty days.

Housing

The National Disaster Housing Strategy (NDHS),³ in its current form, acknowledges the difficulty of planning for housing when the dimensions of any given disaster are unknowable in advance. However, the dimensions of a given population and its housing needs are quite knowable and should serve as the basis for disaster housing planning. Every community that receives federal housing and community development dollars must study its housing market and document its housing needs using the most current data. These "Consolidated Plans" offer disaster planners a great deal of information about housing problems and housing resources in communities.

For most people who are displaced by a disaster, finding shelter or a temporary or new home is time consuming and costly, but not beyond their capacity. But for low wage earners, the under- and unemployed, or seniors and disabled people on fixed incomes who must leave their homes because of a disaster, the obstacles can be insurmountable. These are the people for whom government must plan. The true measure of how complete a disaster housing plan is will be the degree to which the most vulnerable people are covered. The NDHS is required to

²See for example Martel, C. (2007). Bringing it home: A Gulf Coast Marshall plan based on international humanitarian standards. *Vermont Law Review*, 32(1), pp.57-128;and Nathan, R.P. & Landy, M. (2009, June 2). *Who's in charge? Who should be? The role of the Federal government in megadisasters: Based on lessons learned from Hurricane Katrina*. Nelson A. Rockefeller Institute of Government, State University of New York.

³ Federal Emergency Management Agency. (2009, January 16.) *National disaster housing strategy*.

take into account special needs populations, but does not deal with the problems of people who are just too poor to make their own way when disaster strikes.

The NDHS delineates the three forms of disaster housing: shelter, interim housing, and permanent housing. Considerably more detail is offered on shelter than on the other two forms. Shelter is a natural and necessary immediate response. However, if the effect of a disaster is that people's homes are destroyed or damaged to such an extent that they are inhabitable without extensive repair, the disaster response must prioritize getting people out of shelters and into homes. In the absence of a cogent housing response, as was the case with Hurricane Katrina and documented in the Subcommittee's report *Far From Home*,⁴ the trauma of displacement will adversely affect each individual's recovery from disaster, which in turn will impede each community's recovery.

To the maximum extent possible, the quick repair and reoccupancy of damaged housing should be the first order of business. All possible resources should be deployed to achieve this objective, including those of the Department of Defense. Disaster housing policy can draw from the lessons learned on ending homelessness in the U.S. Rapid rehousing is the key concept in homeless services today. Time spent in shelter is minimized and people are provided the subsidies and services needed to move quickly into new permanent homes. Not only is the trauma reduced, but rapid rehousing is much less costly than lengthy stays in shelters or hotels/motels.

While the reality is that temporary housing will be required for many people after a disaster, the emphasis should be on making the transition from temporary to permanent housing as seamless as possible. One of the most serious flaws in the Katrina housing response has been the disconnect between the temporary housing programs and the housing recovery strategy. For example, a renter displaced by Katrina and living in a trailer encampment is told to come up with a permanent housing strategy, as his or her use of the trailer is time limited. Yet the community in which the renter resides does not have a strategy for how it will replace the rental housing that was lost. A displaced family's temporary housing plan and permanent housing plan should be one in the same, just as a community's temporary and permanent housing plans should be.

People who must have temporary housing should have housing options that are physically near the site of their former homes or at least in the same community. This not only allows people to stay close to what they know, it means they are available to participate in the recovery. People recover physically, emotionally, and financially sooner from disasters the closer they are to home and the more they are able to be take part in community recovery efforts.

⁴ Ad Hoc Subcommittee on Disaster Recovery, U.S. Senate Committee on Homeland Security and Governmental Affairs. (2009, February). *Far from home: Deficiencies in Federal disaster housing assistance after Hurricanes Katrina and Rita and recommendations for improvement*.

In some cases, members of households will be separated from one another while in temporary housing. Stafford Act reform should end the "shared household rule" and provide sufficient assistance to families who must live apart due to circumstances caused by the disaster.

For homeowners, temporary housing units (THUs) that can be placed on their property and from which they can oversee the repair or reconstruction of their homes may be the best option. For many low income homeowners, especially elderly people, this strategy presumes that there will be sufficient assistance to cover repair and rebuilding costs.

Rental housing repair. For private market rental housing that is damaged, disaster resources should be used to restore the properties to habitable use, as temporary and permanent housing. In the aftermath of Hurricane Katrina, the decision by FEMA to allow damaged rental homes to go unrepaired and instead spend billions of dollars on trailers and mobile homes was uniquely shortsighted. Imagine how much more quickly neighborhoods could have rebounded if rental properties had been rapidly repaired and occupied. The pilot program that allowed FEMA to pay for repairs to private rental housing in Iowa and Texas after disasters in 2008 showed that this approach is considerably more cost effective than the use of temporary housing units.⁵ Any reform of the Stafford Act should incorporate these findings.

Public and other federally assisted rental housing stock must be repaired just as quickly. HUD must assure that all HUD-assisted properties are properly insured and that HUD has sufficient resources to repair and reoccupy these properties after a disaster. It was absurd that public housing agencies and private owners of HUD-assisted properties in the Gulf Coast states were left to compete with other developers for the GOZONE Low Income Housing Tax Credits and the CDBG dollars allocated to the states. Moreover, a disaster should not be used as an excuse to demolish and not replace public and assisted housing.

Rent assistance. One of the most positive developments out of the Katrina housing experience was the designation of HUD as the agency to administer disaster rent assistance. Senator Landrieu and others will recall that on September 14, 2005, the Senate passed legislation to fund 350,000 Section 8 housing vouchers for Katrina evacuees. But the Administration and the House did not agree. The result was the dreadful FEMA rent assistance program, the problems with which are well documented in *Far From Home*.

The HUD Disaster Housing Assistance Program (DHAP), announced in April 2007, was a vast improvement over the FEMA program. Any future disaster rent assistance program should be run by HUD and its 3500 affiliated local public housing agencies. The use of DHAP to provide rent assistance to people displaced by Hurricane Ike indicates that FEMA and HUD are heading in that direction.

⁵ McCarthy, F.X. (2009, September 16). *FEMA disaster housing: From sheltering to permanent housing*. Congressional Research Service.

However, we recommend that before codifying DHAP, Congress should carefully consider how DHAP and the Section 8 housing voucher program work together. One of the concerns that advocates have had with DHAP is that rents are not based on tenant income and the tenant's share of the rent increases by \$50 a month until it equals or exceeds the amount of assistance, unless they can demonstrate economic hardship. Fortunately, under HUD Secretary Donovan's leadership, very low income people have been or will be transferred from DHAP to the Section 8 housing voucher program. This should be made a permanent feature of DHAP.

One of the most egregious problems with the FEMA rent assistance program was how easily someone could be denied assistance or have his or her assistance terminated with little or no recourse. We estimate that up to 25% of the over 700,000 households that received rent assistance after Hurricane Katrina were cut off improperly. Stafford Act reform must assure that DHAP recipients are afforded the same due process rights as are other recipients of HUD housing assistance.

Temporary housing units. As noted above, mobile homes and other forms of temporary housing units are best suited for use by homeowners while they are repairing or rebuilding their homes. The use of THUs in large scale encampments for displaced renters should be the housing response of last resort. Encampments that are physically isolated from other communities should be banned all together. The National Disaster Housing Strategy does not rule out group sites, but rather calls for making sure they have a full array of community amenities. While this may be well intended, the effect will be to segregate evacuees from the community in which they reside.

Katrina cottages. In 2006, Congress provided \$400 million for the alternative housing pilot program, more commonly known as Katrina cottages. The report on the pilot is not expected before the end of 2011. It would seem appropriate for Congress to ask for a more timely report if the pilot program is to inform Stafford Act reform.

A number of issues have been raised by Gulf Coast housing advocates about how the Katrina cottages are being used today. The subcommittee may want to consider a hearing just on the alternative housing pilot program.

A vivid example was the subject of a front page story in the *Washington Post* last June. The story featured an elderly man in Mississippi who was still living in a FEMA trailer on his property. His house was destroyed by wind damage in Hurricane Katrina, making him ineligible for rebuilding assistance from the state CDBG program. He had no funds of his own to rebuild his house. FEMA was threatening to take the trailer away. Yet, so close that he could see them sat 700 unused "Mississippi cottages," purchased through the alternative housing pilot program.⁶

⁶ Hsu, S.S. (2009, June 13.) Permanence eludes some Katrina victims. *The Washington Post*. pp.A1, A9.

In other cases in Mississippi, displaced families who received cottages and were promised their use until their homes were replaced, have had the cottages removed because the state wants to end its program.

The cottages are owned and deployed by the states that received the pilot program funding. If they are intended to be permanent housing as advertised by the designers, what rules govern how they will be used? Who is eligible to receive one and at what cost? What are the consequences for local jurisdictions that pass zoning ordinances prohibiting the siting of Katrina cottages? Do these ordinances have a disparate impact on racial minorities or persons with disabilities? At a minimum, states should be required to be assure that all the cottages produced under their programs are used to provide permanent homes for their low income citizens who lost their homes due to the 2005 hurricanes.

Low income housing supply. It is outside the scope of Stafford Act reform to address the structural shortage of rental homes affordable to low income Americans, but the Subcommittee should know that there can be no viable National Disaster Housing Strategy as long as this shortage persists.

In the United States today, there are 9.2 million extremely low income (ELI) renter households (incomes of 0-30% of their area median) and only 6.1 million rental homes they can afford (paying no more than 30% of their income for their housing). For every 100 extremely low income household in the United States, there are just 37 rental homes that are affordable and available to them.⁷ As a result, these households pay precariously high portions of their income for the homes, leaving little left for other necessities. Nearly three quarters (71%) of ELI renter households spent over half of their incomes for housing in 2007, and the average ELI renter spent 83% of household income on housing.⁸

In the wake of the foreclosure crisis, conventional wisdom is that the nation has an excess supply of housing and higher than normal vacancy rates. While that may be the case for high cost housing, there is no evidence that the available supply of low cost rental housing has increased. Indeed, the supply of low cost rental housing continues to decline.⁹

Moreover, rents at the lower end of the market continue to rise. The National Low Income Housing Coalition's annual study of housing costs, *Out of Reach*, found that in 2010 the hourly wage that a full-time worker must earn in order to afford a two-bedroom rental home, is

⁷ Pelletiere, D. (2009). *Preliminary assessment of American Community Survey data shows housing affordability gap worsened for lowest income households from 2007 to 2008*. Washington, DC: National Low Income Housing Coalition.

⁸ Ibid.

⁹ Collison, R. & Winter, B. (2010). *U.S. Rental Housing Characteristics: Supply, Vacancy, and Affordability*. HUD PD&R Working Paper 10-1.

\$18.44 an hour, up from \$17.84 an hour in 2009. There remains no place in the United States where a full time minimum wage worker can afford the rent on a one-bedroom rental unit.¹⁰

To address this shortage, Congress established the National Housing Trust Fund in 2008, but has yet to provide funding. The National Housing Trust Fund Campaign has set the goal of 1.5 million units of rental homes affordable for the lowest income households and estimates this will cost \$15 billion a year for ten years. The Administration has requested \$1 billion this year as the initial capitalization for the National Housing Trust Fund. Yesterday, we delivered a letter to every Senator with this request signed by over 2,200 national, state, and local organizations that represent all 435 Congressional districts, plus the District of Columbia and Puerto Rico. We urge your support of this funding now.

Case management

One of the most serious flaws of the Katrina housing response was the disjointed and chaotic manner in which disaster victims received information (or misinformation) about services and programs to which they were entitled. Part of the blame lays in how federal disaster relief is structured. People in crisis are required to interact with multiple agencies, each with its own rules on how much money a given household can receive for what needs. Even the most assertive and articulate clients have difficulty understanding and navigating the labyrinth of disaster assistance programs and rules.

Use of case managers in the aftermath of disasters, especially for vulnerable people, is one solution. Case management is a relatively recent invention in human services that was necessitated by increasingly complex and multilayered service systems that ordinary human beings, let alone people in crisis, could not be expected to navigate.

The Post Katrina Emergency Management Reform Act of 2006 amended the Stafford Act to allow FEMA to fund case management services for victims of disasters. A 2009 GAO report was highly critical of the services provided to people affected by Hurricanes Katrina and Rita under this authority.¹¹

Last year, the members of the Katrina Housing identified a disjointed and ineffective case management system as one of the factors impeding the transition of displaced people from temporary to permanent housing in the Gulf Coast. We wrote to Administration officials urging a more unified and intensive approach to providing case management. Among our recommendations are the following:

¹⁰ National Low Income Housing Coalition. (2010). *Out of Reach*. Washington, DC: Author.

¹¹ U.S. Government Accountability Office. (2009, July). *Disaster assistance: Greater coordination and an evaluation of programs' outcomes could improve disaster case management*.

- No one should have more than one case manager. If any one person or family has more than one case manager, by definition, the case is not being managed. The point of case management is for the person or family in need of assistance to have one person on whom to rely as together they navigate the complex array of programs for which they may or may not be eligible and the rules that may or not apply to them. Once a client has to relate to more than one case manager, the potential for case mismanagement grows exponentially. At best, multiple case managers become nothing more than clerks, facilitating single transactions. At worst, harm can result when no one is coordinating the many transactions.
- Case management should never be provided long distance by phone or email. All case management relationships must be in person with phone and email used only as a secondary means of providing information.
- The intensity of case management must match the intensity of the needs of the clients, which first requires that case managers be skilled enough to conduct the kind of assessment that is required to uncover the extent and depth of needs. This requires case managers to “go where the client is,” both literally and figuratively. Outreach means meeting with clients when and where works best for them, instead of telling them to show up at an office at an appointed time between 9am and 5pm, Monday to Friday.
- Case managers must be skilled in establishing rapport with people with physical, emotional, and developmental limitations and with people who are suspect of representatives of government agencies. Social workers who have experience in working in non-traditional or client-centered agencies should be recruited for this work.¹²
- Case managers should have a reasonable number of clients that makes it possible to provide the quality and intensity of service required. The 1:50 case worker-client ratio used by FEMA is too high for the intensity of services that are required.
- Case managers should be able to rely on high quality clinical supervision.
- Case managers must be knowledgeable about and be able to access the full range of resources available to assist their clients settle in the best possible permanent housing option for each person or family. Regardless of the agency that controls the housing resource (FEMA, HUD, different state agencies), the case manager should be able to tap into all that he or she determines the client is eligible for and that which best matches each client’s given situation. The agencies that control these funds should devise a system by which they can deploy the resources in a unified fashion, so that case managers can access them with a minimum of red tape. A unified and accessible resource pool will not only yield better results for clients, but will be more cost effective by reducing the time that it takes case managers and clients to negotiate with multiple agencies.
- If the case managers are properly trained, have the right size caseload, necessary supervision, and the authority to access and deploy available resources, then they,

¹² Rapp, C.A. & Poertner, J. (1992). *Social administration: A client-centered approach*. New York: Longman.

and the agencies for which they work, can and should be held accountable for successful outcomes; i.e. clients who are permanently housed in a manner that best suits their needs. The number of contacts, number of referrals, or any other process measures should NOT be used to measure case managers' performance or the performance of the agency providing the case management services.

- Under no circumstances should a case be closed before an appropriate permanent housing outcome to which the client agrees has been achieved.

The Administration for Children and Families at the Department of Health and Human Services has published for comment an implementation guide for ACF Disaster Case Management. The guide emphasizes that the case manager be the single point of contact and that both short and long term service be provided. We noted in our comments that it is very easy for any number of agencies to simply declare they are providing case management with no attention to professional standards or coordination with other providers. We urged ACF to not only set standards for the services that will be provided, but to coordinate the provision of services across federal agencies and at the state and local levels.

We also expressed concern that the ACF guide did not place the same emphasis on housing as it did on healthcare, mental health, and other human services. This is despite housing being the most frequently cited need of clients of the FEMA funded Katrina Aid Today case management program.¹³ We strongly urged that case managers be trained to assess housing status, know their clients' housing rights, and have the most up-to-date information on housing related resources.

Finally, a case management system to assist people who are displaced from their homes by disaster should be community-based. People should be able to rely on a local agency that will be prepared to gear up in time of disaster to assist them. We recommend consideration of assigning that responsibility to the 3500 public housing agencies across the country. They have a direct funding and accountability relationship with HUD, and will likely be running DHAP going forward. They could be charged with the responsibility, along with the requisite resources, of providing case management services to all people in their jurisdiction who are displaced from their homes by a disaster. This would include finding temporary housing as well as determining what it will take to reoccupy the home that was damaged or find new permanent housing. PHAs do not employ enough people to take on this assignment, but could be the base of operation for the corps of skilled caseworkers to be "called up" in the case of disaster envisioned by the ACF disaster case management model.

Thank you for again for the opportunity to testify today.

¹³ GAO, 2009.

Additional Testimony from the National Low Income Housing Coalition
RE: May 12 Hearing *Stafford Act Reform: Sharper Tools for a Smarter Recovery*
Presented to the
Ad Hoc Subcommittee on Disaster Recovery of the
Committee on Homeland Security and Government Affairs
United States Senate
May 27, 2010

The federal government has the primary duty and responsibility to provide protection and humanitarian assistance for those displaced during catastrophic disaster, as well as to lead long-term disaster recovery in a way that meets the needs of all displaced persons, with special attention to vulnerable populations, until conditions associated with displacement end. The response to hurricanes Katrina, Rita, Ike, Gustav and Dolly demonstrated that the need for a plan to address initial disaster response and long-term disaster recovery is a matter of national security and importance. State authorities, localities and municipalities are simply ill-equipped to prepare for and to cope with disaster recovery on a catastrophic scale.

It is imperative that future federal disaster recovery better address the housing needs for people with the lowest incomes and vulnerable populations such as people of color, the elderly and persons with disabilities.

The hurricanes of 2005 and 2008 exacerbated an already existing lack of rental housing that is affordable for households with extremely low incomes on the Gulf Coast. Stafford Act reform must ensure a strong commitment of federal support absolutely necessary to ensure access to safe, affordable housing and adequate recovery for all residents after future disasters.

General Housing Issues

Shared Household Eligibility

People who shared a household before a disaster are often forced to seek separate housing after. Under FEMA's so-called "shared households" rules, which limit assistance to one person from each pre-disaster household, members of separated households are often unfairly denied the assistance for which they are otherwise eligible. The Stafford Act should require FEMA to provide assistance to members of separated households with good cause for the separation, including for reasons of divorce, re-employment, evacuation to separate geographic locations, a lack of housing appropriate for the original household size, domestic violence or any other reason for household separation of the pre-disaster household.

Eligibility of People Experiencing Homelessness Prior to a Disaster

People experiencing homelessness prior to a disaster, who are evacuated or displaced, should be explicitly eligible for individual and household assistance under the Stafford

Act, including assistance with housing and, where applicable, medical, dental and funeral expense; transportation expense and reimbursement; and loss of personal property. Simply achieving the goal of returning someone to their pre-disaster status is not acceptable in the case of someone experiencing homelessness.

Recertification

Temporary Housing Assistance should be provided on a continuous basis, without gaps in assistance, to all applicants who demonstrate continued financial need. Continued need should be established when the applicant's post-disaster housing expenses exceed 30% of the applicant family's post-disaster income. Post-disaster housing expenses should include post-disaster rent and utilities, as well as any pre-disaster housing expenses such as mortgage payments, utilities, taxes and homeowner's and flood insurance payments.

Recertification should occur based on the applicant's need without gaps in assistance and without onerous recertification requirements. Any requirements for recertification should be published on the FEMA website and mailed to the applicant more than 30 days prior to the deadline for recertification.

Temporary housing assistance should not be discontinued to an applicant with demonstrated financial need and should continue as long as adequate housing remains unavailable or unaffordable in the displaced household's pre-disaster community or as long as the pre-disaster community lacks adequate infrastructure including utility and telephone service, schools, emergency services including police and fire, medical care including ambulance service, etc.

Housing Assistance with Appeal Pending

FEMA must continue to provide temporary housing assistance to a household pending an appeal of denial of temporary housing assistance. These funds would be subject to recoupment if the household is found through the appeal to be ineligible for the assistance.

Guidance on Housing Assistance

FEMA must be required to issue public guidance in simple terms explaining: all types of housing assistance available under the Stafford Act to households affected by a major disaster; the specific requirements that households must meet to be eligible for the different types of housing assistance, including requirements for continuation of housing assistance provided; and procedures for applying for such assistance. Said guidance should be posted on FEMA's website and provided in accessible format to any household requesting housing assistance.

The guidance must be issued in alternate formats that may be understood by individuals with limited English proficiency, vision or hearing impairments, including through video

relay and TTY system answered by live operators. The information must be available no later than 5 days after the declaration of a major disaster.

HUD must articulate clear responsibilities for state and local public housing agencies and must increase their resources for responding to critical housing needs created by future disasters.

Hardship Waivers for Collection of Rental Charges for Direct Assistance

FEMA should provide hardship waivers for recipients of direct assistance after the initial 18-month period of assistance. All persons continuing to receive direct assistance at least 30-days prior to the end of the 18-month period must be notified of the possibility of a waiver for hardship, which should explicitly describe the process for obtaining such a waiver and for appeal of denial by FEMA. Direct assistance recipients applying for a waiver for hardship or appealing a subsequent denial by FEMA should not be charged rent while their application/appeal is under review.

Hardship Waivers and Appeals for Recoupment

FEMA should provide hardship waivers for recipients subject to recoupment and recipients must be notified of the availability of such a waiver. All persons who receive a recoupment letter must be notified of the possible availability of a waiver for hardship. This notice must also explicitly describe the process for obtaining a hardship waiver. FEMA's regulations and practice is that it will, in its discretion, provide for a repayment plan, but there is no requirement that those who are truly low-income will not be subject to recoupment. Fraud cases would be exempt from this provision.

All temporary housing assistance shall continue pending the appeal of any recoupment or request for hardship waiver. Recoupment payments should not be due and interest and penalties should not begin to run until the appeal is decided.

Public Guidance on Housing Assistance

FEMA should be required to provide public guidance in simple terms explaining all types of housing assistance available to households affected by a major disaster; the specific requirements that households must meet to be eligible for the different types of housing assistance, including requirements for continuation of housing assistance provided; and procedures for applying for such assistance.

Provision of Rental Assistance Dollars

When an applicant is found eligible for temporary housing benefits, the benefit should be provided as of the date the applicant incurred expenses for temporary housing.

Sale of Temporary Housing Units

FEMA should be required not to sell to the public temporary housing units determined to be unsafe for habitation.

National Housing Stock Plan

HUD must develop a National Housing Stock Plan which will identify available housing for rent with disaster housing assistance.

Public Housing One-for-One Replacement Plan

HUD should articulate a plan and identify resources to provide one-for-one replacement of all pre-storm federally assisted homes that serve people below 50% AMI. The plan must include a process for creating high quality, mixed-income developments, located on former public housing sites, which does not decrease the stock of deeply affordable homes.

Financial Assistance for Housing

Adjustment to Rental Assistance Amount

There should be a requirement that the amount of rental assistance given to displaced households be no less than HUD's fair market rent (FMR). Household assistance will set at 120% of local FMR if the President determines that the disaster has resulted in rental market changes such that the FMR does not accurately reflect the cost of renting an apartment. "Extraordinary circumstances," including when accommodating the housing needs of a person with disabilities, would allow for households to receive above 120% FMR. Any adjustment to the amount of assistance must be publicly announced.

Eligible Expenses Under Rental Assistance

Rental assistance provided under the Stafford Act should include advance rental payments when required by the landlord, utility deposits, and security deposits required by the landlord.

Temporary Mortgage and Rental Payments for Households Facing Financial Hardship

FEMA should be able to provide temporary assistance in the form of mortgage or rental payments for individuals or families who, as a result of financial hardship caused by a declared disaster, are at imminent risk of dispossession or eviction from a residence due to foreclosure, cancellation of contract for sale, or termination of any lease, entered into prior to the disaster.

Direct Housing Assistance

Accessible Direct Housing Assistance

Not less than 15% of direct housing assistance units should be made accessible for persons with mobility impairments. Not less than an additional 2% of such units should be accessible for persons with hearing or vision impairments and not less than 1% of these units should be accessible for persons with mobility and vision or hearing impairments.

Unit Standards

All direct housing assistance should be habitable, meaning that the unit is safe, sanitary, and secure. Safe is defined as 1) the exterior is structurally sound, to include windows, doors, and roof; 2) components for electricity, gas, heat, plumbing, etc. are properly functioning, and 3) the interior is structurally sound, to include floors, walls, and ceiling. Sanitary is defined as free of detectable health hazards. Secure is defined as having functional locking mechanisms on exterior doors and windows.

Other Assistance

Other Needs Assistance Related to Temporary Housing

Other Needs Assistance should include any moving and storage expenses necessary to obtain and move into temporary housing and to preserve and transport salvageable personal property and basic household necessities. Temporary housing assistance shall also include moving expenses necessary for the household to obtain affordable housing and moving expenses related to re-patriation.

Assistance should also be available to individuals or families with low incomes in order to obtain clear title for property to which they can demonstrate equitable ownership.

Fair Housing

Compliance

Distribution of FEMA funds must comply with the Civil Rights Act, the Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973.

Oversight of State/Local Distribution of Funds

The Federal government has primary duty to protect those displaced during a disaster especially those most vulnerable. Thus, federal oversight must ensure that state and local governments are not distributing federal funds in violation of the Civil Rights Act, the Fair Housing Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act of 1973. Sub-grantees of FEMA assistance should be subject to the same requirements.

Eliminating Bias in the Design of Recovery Programs

After Hurricanes Katrina, Rita and Wilma, the states in the Gulf allocated substantial portions of their (CDBG) disaster recovery funds to help homeowners repair or rebuild storm-damaged homes. In several instances, guidelines or standards built into the design of the state-run programs had the impact of limiting assistance to people of color and lower-income homeowners. This occurred despite the fact that Congress made specific note in the appropriations bills that the grantees were required to comply with fair housing and civil rights standards, and the fact that (CDBG) funds are specifically intended to benefit low and moderate income people.

Disaster recovery funding grantees must be prohibited from using any discriminatory factors as a basis for determining the amount of rebuilding assistance for which property owners are eligible. HUD should be required to review state-run proposed program guidelines, make a determination that they do not violate the Fair Housing Act, and publish its findings for public review and comment.

Coordination

Coordination with Local Food Banks

FEMA should be required to coordinate with local food banks to ensure access to food for persons in FEMA provided housing. FEMA also should coordinate to ensure that eligible residents of FEMA trailers or other temporary housing programs get connected with all public benefits for which they may be eligible, including food stamps.

Equitable Provision of Social Services Regardless of Classification of Emergency Shelter

Functional needs shelters and general population shelters are the two general categories of shelters after disasters. Often, different resources are available to populations of different shelters. Access to social services and information about housing opportunities should be provided in an equitable manner to all persons, without regard to the category of emergency shelter and the agencies responsible for administering the emergency shelter.

Other

Transparency

A statute should require FEMA to publish all standards that it uses to decide applications for individual assistance, and to make the facts *and* standards that FEMA uses to decide each application available to disaster survivors according to a simple procedure (i.e. a password-protected web site). FEMA's legitimate need for flexibility in varying disasters cannot justify secret or arbitrary decision making. A statute need only provide that (a) whenever FEMA gives policy direction to those who decide applications for disaster assistance, FEMA must simultaneously publish all such policies; and (b)

FEMA must publish a simple process that enables disaster survivors, or their designated advocates, to see all information in their case files. The Subcommittee witnesses--- including DHS's own inspector general---unanimously identified case management as a persistent shortcoming, particularly due to its dispersion among FEMA employees and contractors. Case management cannot begin to be improved until the basic, ordinary work of publishing standards has been done. Make no mistake, FEMA does not yet publish the standards and facts that it relies upon to decide applications for disaster assistance.

FEMA Policy Decisions

FEMA claims the need for broad disaster-by-disaster flexibility in choosing individual assistance policies. Without debating the genuineness of this need, the public deserves appropriate input into FEMA's policy choices regardless of whether those choices are made on an emergent or non-emergent basis. In many instances, Congress has established specialized notice and comment procedures when the standard procedures of the Administrative Procedure Act have proved inadequate. At bottom, if FEMA is to have the unusual and enormous power to alter its individual assistance policies at will, then Congress must decide what public input is appropriate, if any, before or after FEMA does so. This matter of what public input into FEMA policy choices is available requires statutory attention. Regardless of what choice Congress makes, the choice must be in a statute or it will be ignored in disasters. Only outside the context of an individual disaster can rational consideration be given to the proper scope of public input as FEMA alters its standard individual assistance policies. An example of the need for public input on FEMA individual assistance policies is FEMA's "deferred maintenance" rule, which is not publicly available, and which FEMA apparently uses mainly in disasters that affect low-income communities. Under this rule, FEMA denies repair assistance under 42 U.S.C. § 5174(c)(2)(A) if FEMA somehow determines that the condition of a house *prior* to a disaster was a contributing cause of the damages caused by the disaster. Of course low-income families are the primary, if only, ones who are hurt by this rule. They seek--indeed they need--a fair opportunity to discuss with FEMA the origin, objective, and operation of rules such as this before, or at least during, their deployment.

Mitigation Funds

FEMA should be required to further target its current and future pre-disaster mitigation programs to better incentivize pre-disaster mitigation efforts for people with the lowest incomes to prevent destruction and damage from future storms for the most vulnerable populations.

Monetary Cap

The provision of temporary housing assistance to disaster victims is often inequitable. Those households that receive rental assistance have the amount of such assistance deducted from the monetary cap on assistance, while those households that receive

direct housing assistance, in the form of a mobile home or travel trailer, do not have the worth of their housing assistance deducted from the cap.

To correct this imbalance, the monetary value of all forms of temporary housing assistance should be exempt from monetary cap on assistance.

Incorporation of UN Guiding Principles

Stafford Act reform should incorporate the guidelines set out by the United Nations Guiding Principles on Internal Displacement, including the declaration that displaced person should have the right to housing that requires the government to prove temporary housing for the duration of the displacement and support for the rebuilding of permanent homes.

Shelter Reimbursement to Non-Profits

Private non-profits shall be reimbursed for the provision of emergency shelter to households waiting for individual and household assistance under the Stafford Act.

Federal Recovery Funds

The Stafford Act must also be amended to include a mandate that federal agencies administering disaster recovery funding issues clearer regulations for sub-grantees which guarantee access to disaster recovery assistance to persons with low incomes and protected classes under the Stafford Act.

The following recommendations emphasize our understanding of the overwhelming disparities that the poor and Stafford Act protected classes have experienced during disaster recovery efforts which have been implemented by states and localities (as sub-grantees) administering federal disaster housing dollars. Therefore, leading disaster recovery agencies including HUD and FEMA must be required to issue clear standards which govern sub-grantees in their administration of all federal disaster money.

All Rules Apply to Grantees and Subgrantees

When a state defers decisions regarding how disaster recovery funds are to be used to regional or local governmental bodies, HUD has in the past allowed states to file a "shell" disaster recovery plan that does not set forth the detailed uses of the funds or the beneficiaries. This renders the citizen participation process and HUD review of the state disaster recovery plan meaningless. Recently, HUD has taken a stance against shell disaster recovery plans, as evidenced in the Texas CDBG rejection and the recent settlement between Texas advocates and the state of Texas. However, the future of disaster recovery must ensure adequate and just housing recovery by requiring HUD to issues standards that ensure that when states transfer authority to make funding decisions and program design to regional or local units of government, HUD shall require from these sub-granted government entities compliance with all applicable

CDBG requirements imposed upon the states, including plan submission and HUD review and approval of funding allocations and program guidelines.

Income Targeting

The Stafford Act should be amended to require that housing recovery dollars be expended with equitable income targeting for households with the lowest incomes. It is the federal government's primary responsibility to ensure equitable access to recovery, especially when states and localities have demonstrated in past disaster recovery efforts an inability to adequately address the needs of the very poor or protected classes. The flexibility of the CDBG program has allowed localities and states administering *housing* recovery dollars to be administered in ways which disparately impact households with low incomes and protected classes.

Future disaster recovery efforts should include targeted assistance to be awarded through HUD's HOME program to ensure that housing recovery dollars are expended on actual housing needs and that state and local sub-grantees are not allowed to use the flexibility of the CDBG program to effectively prevent people with low incomes, minorities, the elderly or the disabled from having access to affordable housing. Further, we recommend that HUD be required to issue regulations which strengthen its CDBG program and the original income targeting requirements which are often unnecessarily waived during disasters.

Waivers of Income Targeting

Congress has long recognized the need to provide state and local governments with standards for assistance based on beneficiary incomes through the CDBG program. In the regular CDBG program, state and local recipients of CDBG are required to demonstrate that 70 percent of the funds principally benefit individuals with incomes below eighty percent of the median. This standard was preemptively waived to 50 percent for disaster recovery funds appropriated for Hurricanes Katrina, Rita, Gustav, Dolly and Ike, and Congress further offered states the option to seek a waiver further reducing the 50 percent low and moderate income benefit standard.

Congress must apply existing priorities for the use of federal CDBG disaster recovery funds to ensure that the most vulnerable populations are equitably benefited, especially when insufficient funds are appropriated to assist all persons in need. Federal disaster recovery funds must therefore be awarded with the same income targeting requirements as the regular CDBG program, i.e. at least seventy percent of the funds principally benefit low and moderate income persons, and that any waiver of that requirement be based on a showing of "compelling need."

Congress should set more specific standards as to how a recipient must benefit LMI households or require HUD to publish guidance or regulations as to this issue; and if waivers to the LMI requirement are to be permitted to provide the needed flexibility in times of a disaster, there should be similar standards set for judging how a recipient

must demonstrate the "compelling need" requirement for a waiver.

Further, using the income and household needs data available through applications for FEMA housing assistance, states and localities should be required to provide proportional assistance to very low income families with incomes below fifty percent of the median income. These very low income families most often lack insurance and other resources to recover without public assistance, and their unmet needs present a substantial barrier to broader community recovery.

Ratio of Funding for Owner & Rental Rebuilding

Congress recognized the importance of equitably providing for the housing needs of renters in disaster recovery by requiring states to expend at least 10 percent of available CDBG disaster recovery funds for the restoration of rental housing. In disaster recovery processes, localities often are quite vocal about their goals to use federal disaster recovery funds to reduce the number of rental housing units within their jurisdictions and to target funding toward increasing the proportion of middle income homeowners as a strategy to reduce the local proportions of lower income renters. The effect of such policies not only disproportionately denies housing rebuilding assistance to lower income households who are the intended beneficiaries of disaster assistance, in many jurisdictions affected by the recent hurricanes it also has the effect of reducing benefits to persons of color.

Applications for FEMA assistance should be complete enough to allow states undertaking disaster recovery to accurately assess the needs for owner occupied and renter occupied housing. Congress should require that state disaster recovery plans provide housing benefits to owner and renter occupied housing proportional to the need revealed by these objective needs assessments, and should instruct HUD to refrain from preemptively waiving program requirements related to affordable and subsidized housing.

Testimony of
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United Methodist Committee on Relief (UMCOR)
Executive Secretary, U.S. Disaster Response

Hearing: Stafford Act Reform: Sharper Tools for a Smarter Recovery
May 12, 2010, 2:30 PM
Dirksen Senate Office Building
United States Senate Committee on Homeland Security and Governmental Affairs
Ad Hoc Subcommittee on Disaster Recovery

Madam Chairman and Members of the Committee:

Thank you for the opportunity to submit this testimony in support of our shared commitment to comprehensive disaster recovery. This testimony summarizes UMCOR's recommendations regarding Stafford Act reforms, particularly as these reforms relate to the areas of mental health and disaster case management.

Mental Health – Crisis Counseling Program

UMCOR's approach to disaster response is comprehensive and holistic. Holistic disaster response implies that, in addition to meeting basic needs, care will be given for the emotional and spiritual well-being of survivors. We appreciate federal resources that enhance post-disaster mental health services and affirm the partnership between spiritual care providers and mental health professionals. We are, however, concerned about recent conversations regarding federal funding for disaster spiritual care that propose placing spiritual care under the auspices of government-funded mental health. We believe that responsibility for spiritual care belongs within the context and authority of existing faith communities and with trusted local faith community representatives who have been integral to the pre-disaster community.

UMCOR is particularly concerned about ambiguous and varied legal interpretations regarding the First Amendment. While we recognize that supplemental assistance for spiritual care may be needed in particularly catastrophic, mass fatalities incidents, we resist unqualified endorsement of government-funded disaster spiritual care. We are particularly concerned that government-funded spiritual care will interfere with the exercise of free religion by restricting access of trusted faith community representatives to various response settings. Many of these individuals are affiliated with, accountable to and trained by long-standing faith community organizations such as UMCOR.

Finally, numerous faith-based disaster response organizations have extensive, long-established accountability structures and pre-disaster training for spiritual care providers from our communities. Many of these organizations work through National VOAD to establish common standards and ethics.¹ We believe that federal duplication of training

¹ National Voluntary Organizations Active in Disaster Spiritual and Emotional Care Committee Points of Consensus, 2009.

and affiliation structures would waste resources and add layers of bureaucracy that could complicate response.

Disaster Case Management

UMCOR is recognized nationally as a leader in disaster case management. UMCOR is a private organization qualified by nearly 50 years of experience in the provision of disaster case management. In declared and undeclared disasters throughout the U.S., UMCOR-trained volunteers and staff have partnered with individuals and families to assist them in recovering from disasters. Case Management – a holistic and comprehensive approach to family-by-family problem solving - is the vehicle through which UMCOR provides long-term recovery. Local case managers develop relationships with survivors, helping them to plan for recovery, and connecting them to organizations that can best help them. They guide families and individuals through the labyrinth of forms, applications, and organizations they must work with to get the help they need. UMCOR case managers may also provide direct financial assistance from the generous private donations to meet urgent needs. UMCOR specifically seeks to help survivors who have the least resources, and who fall between the cracks of governmental programs.

UMCOR provides training and personnel to local communities to support the development of community-level case management systems, through the sharing of information and forms, training, and experienced personnel.

Disaster Case Managers deployed by voluntary organizations such as UMCOR play a unique role in the recovery of individuals and families. Voluntary organizations complement the services provided by governmental agencies, and deliver Disaster Case Management services in fulfillment of their voluntary missions with respect for and knowledge of the local community.²

UMCOR and other National VOAD member organizations recognize that no single voluntary organization or governmental agency can meet the scope of needs resulting from disasters which overwhelm the community's infra-structure.

UMCOR has historically collaborated with federal, state and local governmental agencies as well as private non-profit organizations to meet the needs of survivors. This inter-agency effort is typically mutually respectful, and voluntary organizations have been supported by governmental representatives such as FEMA Voluntary Agency Liaisons. However, recent governmental funding initiatives have posed significant challenges to these relationships, presenting additional barriers to the cooperative effort necessary for community recovery.

It is therefore respectfully recommended that, wherein State or local government agencies have been funded for disaster case management, these programs:

- should model the National VOAD standards for comprehensive disaster case management;

² National Voluntary Organizations Active in Disaster Case Management Committee Points of Consensus, 2010.

- should be launched quickly so as not to delay services or complicate organization of local recovery efforts;
- should demonstrate a collaborative approach with private organizations, rather than authoritative role;
- should not be promoted as entitlement programs;
- should not impede the efforts of national or local private organizations;
- should avoid duplicating efforts of the private sector;
- should not be mere extensions of on-going social services programs;
- should limit client information gathering specific to disaster case management and matching needs with resources; and
- should respect the confidential nature of client information obtained by voluntary organizations.

UMCOR affirms the appropriate exchange of aggregate data from all providers of disaster case management – whether governmental or private. Aggregate data is sufficient for the purposes of policy, programmatic and community assessment purposes. UMCOR asserts that client specific information is to be shared only on a case-by-case basis as permitted by the client to verify need and to prevent duplication of benefits and services in order to assist the client toward achieving recovery goals. Data systems cannot and should not replace quality case management.

Section 426 of the Stafford Act affords the opportunity for government funding for financial assistance to address unmet needs. It is UMCOR's recommendation that any government-funded disaster case management program include financial assistance for families to meet unmet needs, and that these resources be equitably accessible to all case management programs, inclusive of clients served through private organizations, via the established long term recovery group within the local community.

Respectfully submitted,
Catherine G. Earl



Written Testimony

for the

Senate Homeland Security and Government Affairs Committee

Subcommittee on Disaster Recovery

“Stafford Act Reform: Sharper Tools for a Smarter Recovery”

May 12, 2010

**National Fair Housing Alliance
1101 Vermont Avenue, NW
Suite 710
Washington, DC 20010**

The National Fair Housing Alliance submits this testimony to the Subcommittee on Disaster Recovery of the Senate Homeland Security and Governmental Affairs Committee, as it considers proposals for strengthening the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The National Fair Housing Alliance (NFHA) is a consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals from throughout the United States. Headquartered in Washington, D.C., the National Fair Housing Alliance, through comprehensive education, advocacy and enforcement programs, provides equal access to apartments, houses, mortgage loans and insurance policies for all residents of the nation.

Non-Discrimination in Federal Disaster Assistance

One critical, but often overlooked, aspect of the Stafford Act is the guarantee it provides that all victims of federally-declared disasters will have access to federal assistance for response and recovery on a fair and non-discriminatory basis. The Act clearly spells out the intent of Congress to ensure that victims of disasters will not face discrimination as they seek to obtain assistance either from the federal government itself or from private organizations receiving federal funds for disaster response and recovery efforts. Section 308 of the Stafford Act states:

Sec. 308. Nondiscrimination in Disaster Assistance (42 U.S.C. 5151)

(a) Regulations for equitable and impartial relief operations - The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. **Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, disability, English proficiency, or economic status.**

(b) Compliance with regulations as prerequisite to participation by other bodies in relief operations - **As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President, and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.**

(Emphasis added.)

In addition to the non-discrimination provisions of the Stafford Act, the operations of FEMA are covered by a number of other federal non-discrimination statutes. FEMA acknowledges this,

and has stated that it “supports and implements to the fullest extent the following Civil Rights statutes, with their attendant regulations: Title VI of the Civil Rights Act of 1964; the Fair Housing Act of 1968¹; Title IX of the Higher Education Amendments Act of 1972; Sections 504 and 508 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Sections 308-309 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, as amended; and Title II of the Americans with Disabilities Act of 1990.” (Director’s Policy No. 7-05, Civil Rights Program, November 8, 2005, available on the FEMA website at http://www.fema.gov/pdf/oer/state_7_05.pdf.)

Inadequacy of FEMA Non-Discrimination Regulations

FEMA has promulgated regulations to implement this section of the Stafford Act, but the regulations are inadequate. FEMA Regulation 5 (44 CFR Part 7, Nondiscrimination in Federally-Assisted Programs) addresses only four of the protected classes listed in Section 308 of the Stafford Act: race, color, religion and age. Nowhere does the regulation address discrimination based on religion, nationality, English proficiency or economic status, all classes protected under the Stafford Act. Nor does the regulation address the rights of an additional class protected under the Fair Housing Act, namely, families with children.

FEMA’s Discriminatory Actions and Failure to Respond to Discrimination Complaints

Further, despite the regulations, experience on the ground in the aftermath of Hurricane Katrina and subsequent hurricanes in the Gulf demonstrate that FEMA has not established the systems, policies and procedures needed to prevent discrimination in its own operations, or in the programs it funds and/or administers. Nor has FEMA provided its staff with the training needed to effectively implement its non-discrimination regulations. A few examples illustrate this problem:

1. **FEMA has sponsored discriminatory housing ads.** Immediately after Hurricane Katrina, FEMA sponsored a website, DHRonline.com, to help displaced people find new housing. DHRonline.com was one of a number of websites that included blatantly discriminatory listings on its site. As described in the Congressional testimony of James Perry, Director of the Greater New Orleans Fair Housing Action Center, the ads, “discriminate against African-Americans, whites, Latinos, Asian-Americans, non-Christians, families with children and other protected groups.” (Testimony of James Perry before the Housing and Community Opportunity Subcommittee of the House Financial Services Committee, February 28, 2006).
2. **FEMA’s staff fail to accept or investigate complaints of discrimination, as specified in its regulations.** After Hurricane Katrina, FEMA contracted for 54 of the

¹ Note that the Fair Housing Act was amended in 1988 to prohibit discrimination based on disability or familial status. Although the Director’s Policy No. 7-05, adopted in 1995, fails to mention these amendments, presumably FEMA also supports and implements these amendments as well as the protections adopted in 1968.

98 mobile home units in the Homestead Mobile Home Village in Gulfport, Mississippi for use by people displaced by the storm. In 2006, an African-American family living in the trailer park complained to FEMA about racial discrimination by the trailer park management. FEMA did not accept or investigate the complaint. Instead, its staff on the ground in Mississippi informed the family that it did not deal with housing discrimination, and told them to talk to HUD. FEMA ultimately relocated the family to other housing, but took no action to protect the rights of other African-American families living in units for which FEMA had contracted in the trailer park, and for which rent was being paid with federal funds. For some time after the allegations of racial discrimination were made to FEMA, Homestead Mobile Home Village continued to receive federal disaster relief funding.

3. **Where discrimination in access to federal disaster housing assistance has been found, FEMA has taken no steps to sanction the parties responsible.** After investigating the case cited above, HUD concluded that the Homestead Mobile Home Village owner and managers had discriminated based on race. This is a violation of the Fair Housing Act, and also a violation of the Stafford Act. The Department of Justice is currently litigating this case. To the best of our knowledge, however, FEMA never imposed any sanctions on the trailer park owner or manager. It did not, for example, seek the return of federal monies paid to the trailer park during the period in which its management engaged in racially discriminatory actions. As a result, federal tax dollars subsidized racially discriminatory behavior. (See *The Secretary, United States Department of Housing and Urban Development on behalf of Maggie Johnson, Jermille Johnson and their minor children, Charging Parties v. Christopher S. Hebert and Indigo Investments d/b/a Homestead Mobile Home Village, Edward L. Hamilton and Barbara A. Hamilton, Respondents*, FHEO No. 04-06-0723-8, April 30, 2009.)
4. **FEMA itself has discriminated on its own Internet Housing Portal.** After DHRonline.com was closed down, FEMA's own Housing Portal offered landlords the opportunity to indicate whether or not they would accept families with children. This was done via a drop-down menu on the website, labeled "Children Y/N." The default value for that field was N, for no children. This sent a message to landlords that refusing to rent to families with children was a legitimate option, when in fact it is a violation of federal law. While familial status is not a protected class under the Stafford Act, it is protected under the Fair Housing Act, which applies to *all* housing, including federal funding for housing, which includes funds administered by FEMA. This drop-down menu was a feature of the FEMA Housing Portal until just a few months ago, when it was removed in response to correspondence from NFHA.
5. **FEMA's staff continues to solicit information from landlords seeking to use the FEMA housing portal about whether or not they will rent to families with children.** While FEMA removed the discriminatory feature from its Housing Portal,

it does not appear to have informed its staff that requesting such information violates the law, or that it will no longer provide potential landlords the opportunity to indicate that they do not accept children. As recently as last week, a FEMA employee indicated to a phone caller inquiring about how to offer housing units to rent to people displaced by the flooding in Nashville that among the types of information a prospective landlord would be asked to provide is whether or not they would rent to families with children.

6. **FEMA does not provide education or training to landlords about their non-discrimination obligations.** When asked last week whether FEMA could provide information to landlords about their responsibilities in renting to people displaced by disasters, the same caller to the FEMA helpline was told that no such information was available, either in written form or on the FEMA website. Nor would FEMA require a potential landlord using its Housing Portal to certify that he or she would not discriminate on any prohibited basis.

All of these experiences indicate that FEMA is ill-prepared to carry out its Congressional mandate to prevent illegal discrimination in its own operations and in the operation of the programs that it funds.

Recommendations

To ensure that FEMA can implement Congress' mandate against discrimination, as detailed in the Stafford Act and other relevant legislation, NFHA recommends that Congress take the following actions:

1. Require FEMA to update its regulations to incorporate all of the protected classes under the Stafford Act and the Fair Housing Act.
2. Request that the Government Accountability Office undertake a study of FEMA's non-discrimination efforts, including staffing, training, procedures for ensuring non-discrimination by recipients of disaster funding, complaint intake and investigations, and enforcement actions, and make recommendations for improvement.
3. Require FEMA to provide training to its staff and contractors about their non-discrimination responsibilities, agency policy with respect to non-discrimination in the provision of disaster assistance, and the procedures that must be followed when a discrimination complaint is received.
4. Require FEMA to provide written or other information to recipients of federal disaster relief funds about their non-discrimination obligations and to obtain certification that such recipients are in compliance with those requirements.
5. Require FEMA to make periodic reports to Congress about its non-discrimination outreach and education efforts, staffing and training of its non-discrimination functions, the number of discrimination complaints it receives, the types of discrimination alleged, the outcome of its investigations, enforcement actions taken and remedies provided to

aggrieved parties. Such reports should be made on at least an annual basis, and more frequently in the aftermath of a catastrophic event.

Thank you for the opportunity to submit these comments. We would be happy to answer any questions that the Subcommittee may have about them. For further information, please contact any of the following NFHA staff at 202-898-1661:

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Written Testimony of
Mary Joseph, Director
Children's Defense Fund Louisiana Office

Hearing Before the
United States Senate
Committee on Homeland Security
& Governmental Affairs –
Ad Hoc Subcommittee on Disaster Recovery

May 12, 2010

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Step Forward for Children

**Testimony of
Mary Joseph**

Hearing Before the
United States Senate Committee on Homeland Security
& Governmental Affairs –
Ad Hoc Subcommittee on Disaster Recovery

Stafford Act Reform: Sharper Tools for a Smarter Recovery

Thank you for this opportunity to submit this testimony concerning Stafford Act reform and, most importantly, how we can use the lessons learned from the aftermaths of Hurricane Katrina and apply them in the addressing the needs of victims of future disasters.

My name is Mary Joseph. I am the Director of the Children's Defense Fund Louisiana Office. Prior to joining CDF, I served as Acting Assistant Secretary and Deputy Assistant Secretary for the Office of Family Support, Louisiana Department of Social Services, where I was responsible for the administration of public assistance benefit programs including food stamps, child care and the Governor's Solutions to Poverty program.

For 8 months after returning to New Orleans, my husband and I lived with my son and his family, along with my daughter-in-law's parents and another other son, before buying a house away from my old neighborhood. Over this same period of time it became clear to me that it was time to figure out my next course in life. I had served as a volunteer for The Children's Defense Fund (CDF) for 25 years. Before the storm, CDF had had an office in Jackson, Mississippi. Right after Katrina, CDF President Marian Wright Edelman recognized the need for an office in New Orleans. To make that happen, Wright Edelman found me and CDF opened its Louisiana office on October 1. CDF has been able to start over 30 freedom schools – from New Orleans to Leonville near Baton Rouge. We have reached thousands of children and families, working on after-school programs and state childcare initiatives, with case management, furniture, medicine, and efforts toward getting them back home.

I applaud this committee for its willingness to take on the tremendous work involved in studying the Stafford Act, addressing the many problems in its implementation, and then listening to so many affected public and private actors concerning solutions to these very important issues.

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I. The Katrina Citizens Leadership Corps

In 2007, the Children's Defense Fund organized the Katrina Citizens Leadership Corps (KCLC) to mobilize residents of New Orleans and the Gulf Coast region to restore and reclaim the hundreds of thousands of devastated lives ensnared in the sustained aftermath of Hurricanes Katrina and Rita. KCLC, made up of over 250 displaced residents from the Gulf Region, sought to highlight and offer strategic solutions to the maze of problems and issues confronting displaced families and children as they try to make their way home.

The Katrina Citizens Leadership Corps serves to assist in fomenting hope among displaced residents and bridging their efforts to return home with dignity and justice. This concerted effort emerges from the Southern regional office of the Children's Defense Fund and is designed to empower residents through a comprehensive community-based process sustained by the support of advocates, activists and diverse networks in business, legal, political, health, medical and education fields.

While recovery is the broader rubric under which efforts to assist returnees is organized, Katrina has created an even larger impetus for improving the conditions of impoverishment under which significant numbers of young, old, ill, mentally ill and homeless struggled before Katrina. The storm exposed the rampant disparities eroding their lives. No other American natural disaster, in recent times, has drawn such ongoing worldwide attention to the long, unremitting legacies of racism and structural poverty than the devastation wrought by Hurricane Katrina. The tragedies of Katrina and Rita have advanced the development of preparedness and disaster protocol that is expressly attuned to the needs of vulnerable populations. The unexpected legacy of Katrina is the creation of more efficient and sensitive systemic preparedness for natural disasters along with a keener awareness by communities, families and individuals to the importance of preparedness in the presence of changing global climatic conditions.

KCLC's most important work has been publication of the report, "**What it Takes to Rebuild a Village After a Disaster: Stories from Internally Displaced Children and Families of Hurricane Katrina & their Lessons for our Nation.**" Central to the findings in the KCLC Report is a discussion of the *Robert T. Stafford Disaster Relief and Emergency Act*, commonly known as the *Stafford Act*, which is roundly criticized as inadequate to handle the myriad problems families and children face as a result of natural disasters.

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II. Voices of the People – The Personal Stories that Compel Stafford Act Reform

At the outset, I want to share with you representative examples of the problems many Hurricane Katrina and Hurricane Rita victims faced in rebuilding their lives post-storms. These Voices of the People give context to the KCLC recommendations for Stafford Act reform.

"I am the senior leader for my family and the one responsible for keeping everyone together spiritually and emotionally. Katrina happened and scattered my family from Texas to Georgia. The initial adjustment at age 69 was very frightening for me. New Orleans culture was missing along with my family members when I moved to Lithonia, Georgia."

Maude Perryman asks, "Where do I go from here?" This 65-year old grandmother with 4 grandchildren has relocated to Jackson, Mississippi. She is raising her grandchildren without any assistance, and without her village. One of her grandchildren is mentally ill. She is currently facing foreclosure on her home, and her lien holders have told her that they need \$8,000 up-front or she'll be out on the streets. There is no social safety net.

Gilbert Cook, a father of three, ultimately moved his family five times before settling in Georgia. "Every time we move it takes a toll on my family," he said. "Because they know what it felt like to be home in New Orleans where they were rooted in family and tradition ... I still find myself getting sad when I think about New Orleans and my family who I miss dearly." Mr. Cooks says that finding a permanent job and affordable housing are his biggest challenges.

"To adjust with part of my family living in New Orleans and the other family members living in Georgia is very difficult."
Ms. Christine Smith, grandmother now living in Lithonia, GA

Bandaka and Lyle Soule evacuated to Jackson, Mississippi due to Hurricane Katrina. Lyle drove trucks in New Orleans, and was able to find similar employment in Jackson. While driving on his truck route, Lyle had a medical emergency. The doctors found a tumor that on his optic nerve that caused him to be permanently blind. Doctors explained to Lyle that the stress of Hurricane Katrina caused the cancerous lump to grow rapidly. Lyle was the only financial provider for his family of three. He was referred to the Mississippi School for the Blind where his case worker enrolled him into Medicaid and also found funds through Hurricane Katrina Assistance for his schooling and medical needs. Lyle's

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wife Bandaka finally secured employment after several long months of no income. The family has recently become accustomed to their new life, however everyday is still a struggle.

Zaneta Jones' family struggles each month to pay for food, education and healthcare. She, along with her family – her husband and 4-year-old son – moved several times after Katrina, ending up in Snellville, Ga. "We live paycheck to paycheck and in between the checks, it is extremely tight and difficult financially," she said. Zaneta takes night-school classes in cosmetology and earns a little money by styling hair in her home while caring for her young son. Although her husband works, his income is not enough to meet their needs. Zaneta would prefer to enroll her son in a learning-daycare facility, but the tuition is too expensive. The family's only car has frequent mechanical problems that they cannot afford to repair. Temporary Medicaid benefits issued to adults after Hurricane Katrina have now disappeared, leaving Zaneta and her husband uninsured and in fear of a medical emergency. "My husband's check and my little contribution are hardly enough to keep us afloat. We struggle to keep the car running, pay utility bills that are higher than we had in New Orleans. The rent takes up most of the money my husband earns for the month."

III. The Stafford Act Problem

Governmental responses to Hurricane Katrina have been roundly criticized by Americans and people around the world for the failure to protect lives, provide urgently needed humanitarian services, and remove bureaucratic obstacles that prolong the displacement of people from the Gulf Region. Underlying these criticisms is the expectation of a standard of care that is not required by federal law. The Robert T. Stafford Disaster Relief and Emergency Assistance Act places virtually all disaster response, including emergency medical assistance and the reduction of life-threatening risks, at the discretion of the President of the United States. The Stafford Act also explicitly denies an individual harmed by a national disaster the legal right to claim assistance or compensation for loss. Notwithstanding the human suffering experienced and witnessed in the days following Hurricane Katrina, which were followed by numerous governmental barriers to the rebuilding of housing, schools, and hospitals, the disaster response developed by then President Bush, however appalling, does not violate the Stafford Act.

An alternative standard of care is presented by the United Nations' GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT. THE UN GUIDING PRINCIPLES establish the duties of national governments and the rights of displaced people for the

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purpose of ending displacement and ensuring the recovery of people and communities. The duties of national governments range from preventing or at least mitigating the conditions that can cause displacement, preventing any form of ethnic cleansing that alters the racial, ethnic or religious composition of an area where displacement occurs, and providing specific assistance to displaced persons that includes, but is not limited to, housing, education, and health care. The rights of individuals include, but are not limited to, voluntarily choosing to return home, integrate in the area where evacuated, or resettle elsewhere in the country, as well as a right to humanitarian assistance, such as housing, food, healthcare, education, and other necessary services for the duration of their displacement.

As shown in the table below created by Advocates for Environmental Human Rights, there are stark differences between the Stafford Act and THE UN GUIDING PRINCIPLES that rest on the conflicting perspectives of whether a person harmed by a national disaster has the right to recover.

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Table: Robert T. Stafford Act vs. UN Guiding Principles on Internal Displacement

Recovery Issue	Robert T. Stafford Act (Federal Law on Disaster Response)	United Nations Guiding Principles on Internal Displacement
Should the federal government have primary responsibility for disaster recovery?	No. States have primary responsibility for disaster recovery. The federal government's responsibility is limited to matters under exclusive federal control as established by the U.S. Constitution or federal law. All other federal responses to a disaster are discretionary acts that are completely immune from lawsuit. (42 USC §5191 & §5148)	Yes. National governments have the primary duty to prevent or at least mitigate the conditions that can cause displacement, as well as provide protection and humanitarian assistance to people who are displaced by a natural or human-induced disaster. (Principles 3, 5 & 25)
Should people who have been displaced by a disaster have a right to humanitarian assistance and assistance to either return to their residences or resettle?	No. Individuals do not have a legal right to assistance. The federal government is not even required to provide essential assistance, which includes emergency medical care, reduction of immediate life-threatening risks, and housing. (42 USC §5170b)	Yes. All displaced persons have the right to request and receive protection and humanitarian assistance from governmental authorities as well as the right to voluntarily return or resettle in safety and with dignity. (Principles 3, 25 & 28)
Should displaced people be protected from governmental actions that result in discriminatory impacts?	No. Federal courts have limited the prohibition against discrimination to an intentional act of discrimination, not an act that results in a discriminatory impact. (<i>Sandoval v. Alexander</i> , US Supreme Court, 2001)	Yes. Displacement that is aimed at or results in "ethnic cleansing" or altering the racial, ethnic or religious composition of an affected people is prohibited. Displaced persons have a right to governmental assistance and protection that does not intentionally discriminate or result in a discriminatory impact. (Principles 4, 6, 18 & 24)
Should displaced people have the right to housing, education, and healthcare?	No. Housing assistance, temporary educational facilities, and healthcare services are provided at the discretion to the federal government. (42 USC §5174(b), §5174(c) & §5170b.a.3.D)	Yes. Displaced persons have the right to housing, education, and medical services that requires the government to provide temporary housing for the duration of the displacement, support for the rebuilding of permanent homes; educational and training facilities, and medical services, including mental health care and social services. (Principles 18, 19, 23, 28 & 29)

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Under THE UN GUIDING PRINCIPLES, displacement is not merely defined by physical space but by need. As some people have managed to return home to New Orleans and the Gulf Region, they face similar obstacles that have been experienced by internally displaced people around the world in need of housing, schools, healthcare, trauma counseling, employment, and a voice in governmental decisions that affect their lives and communities. It is now routine to hear a returning New Orleanian or Gulf Coast resident say, "I'm back home, but . . . my family is scattered in two states, I can't find a school or daycare center for my child, the government wants to demolish my home and I can't cut through the red tape, I was arrested for trespassing on my property, my family doctor has moved away, the place where I worked before the storm has closed, or there is no hospital or grocery store in my community." These needs are compounded when people are physically dislocated from their communities.

For the nearly five years following Hurricane Katrina, children and adults have been subjected to the unraveling of basic freedoms, protections, and social services. Housing, education, healthcare, fair working conditions, social services, voting rights, civil liberties, and meaningful participation in public affairs at all levels are out of reach for both children and adults as a result of their displacement, notwithstanding the inspiring efforts that displaced residents have undertaken to restore their communities and assist people in returning home. Displaced children and adults need a standard of care that ensures their recovery. Such a standard already exists in the form of THE UN GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT. The challenge for displaced residents of the Gulf Region and all Americans is in establishing this standard of care as our government's response to a national disaster or emergency that uproots people from their communities.

IV. Let's Repair the Breach – Practical Solutions

The *What It Takes to Rebuild a Village* report serves as the vehicle to transform the flawed disaster response policy into a policy that respects and protects the right to recover in keeping with the *UN Guiding Principles on Internal Displacement*. The diverse perspectives held by KCLC members are synthesized in the report. The wisdom of these perspectives is simple: mere recommendation of new policies and programs to improve post-disaster policies and programs is inadequate without a framework that recognizes the right to recover. The recommendations in the *What It Takes to Rebuild a Village* report are as follows:

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KCLC RECOMMENDATIONS FOR REBUILDING THE VILLAGE

The following recommendations are made for the purpose of ending the trauma and hardship of displacement in the lives of people from the Gulf Region and ensuring that federal standards are adopted to protect the right of all people to recover from a natural disaster. These recommendations are necessitated by both the frequency of natural disaster declarations throughout the United States and territories, and the recognition that current disaster law and policies are inadequate to ensure the recovery of people who become displaced by a natural disaster. Many of these recommendations can be accomplished in the short-term by Presidential Executive Order and should also be considered for new legislation that permanently establishes the rights of displaced U.S. residents.

Adoption of the *UN Guiding Principles on Internal Displacement*

- The U.S. Government should recognize the survivors of Hurricane Katrina as "internally displaced persons," who have a right to a level of governmental protection and assistance that ends their displacement in keeping with the *UN Guiding Principles on Internal Displacement*.
- The U.S. Government should adopt and implement the *UN Guiding Principles on Internal Displacement* as the standard federal response to a natural disaster that causes population displacement.
- The U.S. Government should convene a task force of federal departments and agencies to improve policies and practices pertaining to disaster planning and response, housing, public education, health and mental health care, voting rights and public participation, employment standards and programs, and environmental protection for the purpose of ensuring that displaced persons are able to fully enjoy the

protection and assistance afforded by the *UN Guiding Principles on Internal Displacement*. This task force should also ensure that legislation proposed by the administration or Congress does not restrict or otherwise interfere with the provisions of the *UN Guiding Principles on Internal Displacement*.

Safeguards Against Displaced People Becoming Homeless or Jobless

- The U.S. Government should develop a comprehensive social service delivery system that is technology-based and interlinked through governments for a natural disaster resulting in population displacement. Such a system would be used prior to a natural disaster to identify and periodically send communications to residents living in vulnerable regions that notifies them of federal disaster plans and preparations. In the



Testimony of Mary Joseph, Director - Children's Defense Fund Louisiana Office
 Hearing Before the
 United States Senate Committee on Homeland Security & Governmental Affairs -
 Ad Hoc Subcommittee on Disaster Recovery
Stafford Act Reform: Sharper Tools for a Smarter Recovery
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event of a disaster, the system would be employed to coordinate the delivery of humanitarian assistance, such as food, housing, health care, education, family reunification, and trauma counseling to displaced residents for the duration of their displacement.

- The U.S. Government should develop disaster recovery programs that prioritize support for both displaced homeowners seeking to rebuild their homes and displaced renters of private and/or subsidized housing to access affordable rental housing and first-time homeowner programs. Temporary housing assistance should be made available to all displaced persons for the duration of their displacement. These programs should prohibit the use of federal disaster funds for projects that arbitrarily displace communities.
- The U.S. Government should develop disaster recovery programs with the participation of displaced persons. Such programs should be designed to prevent or at least mitigate the conditions that caused or contributed to population displacement. The U.S. Government should create affirmative hiring and job training programs for displaced residents on reconstruction projects and disaster recovery operations. Furthermore, the U.S. Government should aggressively investigate and penalize government contractors for unsafe working conditions and unfair compensation on reconstruction projects.

Learning & Growing by Displaced Children

- The U.S. Government must ensure that education effectively addresses the needs of the whole child by establishing for parents and guardians voluntary social service and educational programs that include access to health care, early childhood education, school and home visits by social workers certified to provide culturally relevant counseling services, and school and home visits by learning tutors to assist displaced children who have a lapse or interruption in their education as a result of missing school days or transferring to one or

more schools during displacement.

- The U.S. Government should prioritize the rebuilding of schools and facilities in a disaster-stricken area and supporting the recovery of teaching staff and school faculty.

Health & Wellness of Displaced People

- The U.S. Government must ensure that displaced children and adults have access to adequate health care programs that are not restricted as a result of lost medical records or legal documents.
- The U.S. Government must ensure that health programs for children and adults include culturally relevant mental health services, crisis counseling, and therapeutic treatment for the duration of displacement.

Dismantle the Cradle to Prison Pipeline

- The U.S. Government must ensure that education spending is used to implement effective school-based interventions and alternatives to the expulsion or removal of students with challenging behaviors and special learning needs.
- The U.S. Government should develop standards to mandate that every 4th grader, not limited by special learning needs, is prepared to read at grade level or higher.
- The U.S. Government should create financial incentives that steer schools away from the designs, construction, and equipment installation that are found in prisons, and toward designs, construction, and equipment installation that inspire learning, creativity, and self-esteem among children and young people.

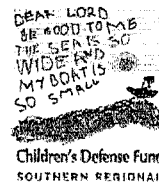
V. Conclusion

I understand the Subcommittee on Disaster Recovery will consider HR 3377, the house bill that would enact fundamental changes to the Stafford Act, and I thank you for this opportunity to allow the KCLC membership to provide testimony to inform this subcommittee and support its efforts steering Stafford Act reform.

This subcommittee has been working quite diligently over the last 2 years, as evidenced by the release of the Subcommittee's nine-month investigation into the post-Katrina and Rita botched housing response, and the myriad of challenges that remain along the Gulf Coast. Please allow KCLC to continue to work with you to ensure the Congress and the Obama administration enacts Stafford Act reform that fully embraces the recommendations of those most affected by natural disasters, and adopts a standard of care that makes recovery of people and restoration of their lives and well-being a right and expectation.

Testimony of Mary Joseph, Director – Children's Defense Fund Louisiana Office
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April 26, 2010



via facsimile: 202.228.4469

Senator Mary Landrieu, Chair

Subcommittee on Disaster Recovery –

Senate Homeland Security and Governmental Affairs Committee

Hart Senate Office Building, Room 613B

Washington, D.C.

RE: Revisions to Stafford Act

Dear Senator Landrieu:

As you know, I serve as Director of the Children's Defense Fund Louisiana Office. We thank you for your tremendous work with our children and families, especially since the 2005 storms, insuring their just and equitable recovery.

In 2007, with support from the W.K. Kellogg Foundation, the Southern Regional and Louisiana offices of CDF organized Katrina Citizens Leadership Corps (KCLC) to mobilize residents of New Orleans and the Gulf Coast region to restore and reclaim the hundreds of thousands of lives devastated in the displacement triggered by Hurricanes Katrina and Rita. The membership of KCLC is comprised of over 250 Gulf Region residents physically displaced in Houston, Texas; Atlanta, Georgia; and Jackson, Mississippi; as well as Gulf Region residents who have managed to return to New Orleans and Baton Rouge, Louisiana; and Biloxi and Gulfport, Mississippi. We published a report of our experiences and recommendations, entitled WHAT IT TAKES TO REBUILD A VILLAGE AFTER A

1452 North Broad Street, New Orleans, LA 70119 p (504) 309-2376 f (504) 309-2379
www.childrensdefense.org/louisiana

Hon. Mary Landrieu, Chair
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April 26, 2010
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DISASTER: STORIES FROM INTERNALLY DISPLACED CHILDREN AND FAMILIES OF HURRICANE
KATRINA AND THEIR LESSONS FOR OUR NATION.
<http://www.childrensdefense.org/child-research-data-publications/data/rebuild-village-hurricane-katrina-rita-children.pdf>

I write to you today because of your work as Chair of the Subcommittee on Disaster Recovery, to request KCLC member voices, stories, and lessons for recovery be heard through testimony at hearings of this committee. A few days ago a team of scholars from the University of New Orleans who have lived and breathed the aftermath of Hurricane Katrina presented their recommendations for achieving successful long-term recovery from a catastrophe to key congressional and administration staff at a briefing at the Capitol. We know you were instrumental in arranging for these University of New Orleans voices being heard, and commend you for that effort.

We understand the Subcommittee on Disaster Recovery will consider HR 3377, the house bill that would enact fundamental changes to the Stafford Act. It is critically important that KCLC members be allowed to testify and inform your subcommittee and support you in your efforts steering Stafford Act reform.

Your subcommittee has been working quite diligently over the last 2 years, as evidenced by the release of the Subcommittee's nine-month investigation into the post-Katrina and Rita botched housing response, and the myriad of challenges that remain along the Gulf Coast.

The KCLC report and our member testimony would bolster the findings of your Subcommittee's report, and move further to prescribe additional recommendations made

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for the purpose of ending the trauma and hardship of displacement in the lives of people from the Gulf Region and ensuring that federal standards are adopted to protect the right of all people to recover from a natural disaster. These recommendations are necessitated by both the frequency of natural disaster declarations throughout the United States and territories, and the recognition that current disaster law and policies are inadequate to ensure the recovery of people who become displaced by a natural disaster. For your information, we attached our KCLC Matrix of Recommendations for amending the Stafford Act & Establishing New Federal Standards for Disaster Response, Mitigation, and Recovery. This matrix presents the disaster response, mitigation, and recovery policies recommended by the KCLC, the US Conference of Mayors, the US Senate Homeland Security Committee, the Internal Displacement Project of the Brookings Institution and the University of Bern, Switzerland, and a Congressional Bill to amend the Stafford Act. The matrix shows that all of these recommendations have similarities that can support unified work to improve the current legal standard on national disasters. *However, these recommendations also present differing goals for governmental disaster management. In particular, the KCLC wants to ensure that governmental resources ensure the recovery of people displaced by a disaster.*

Let's work together to ensure the Congress and the Obama administration enacts Stafford Act reform that fully embraces the recommendations of those most affected by natural disasters. The KCLC would be honored to work with you and your staff to ensure the bill signed by the president adopts a standard of care that makes recovery of people and restoration of their lives and well-being a right and expectation.

Please contact me at 504.309.2376 at your earliest convenience. We look forward to working with you and your staff members on this effort.

Hon. Mary Landrieu, Chair

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Senate Homeland Security and Governmental Affairs Committee

April 26, 2010

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Sincerely,



Mary Joseph, Director

Louisiana Office

Children's Defense Fund

Enc.

cc: Marion Wright Edelman, President

Oleta Fitzgerald, Director – Southern Regional Office

Children's Defense Fund

Katrina Citizens Leadership Corps

Matrix of Recommendations for Amending the Stafford Act & Establishing New Federal Standards for Disaster Response, Mitigation, and Recovery

Compiled & Analyzed

by

Monique Harden, Advocates for Environmental Human Rights – mharden@humanrights.org
Tracie Washington, Louisiana Justice Institute – tracie@louisianajusticeinstitute.org

Purpose: The aftermath of Hurricane Katrina and subsequent national disasters have brought extensive criticism of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as an inadequate and ineffective legal standard for federal response to a national disaster that causes population displacement and significant damage to property and infrastructure, which overwhelm the capacities of state and local governments to achieve recovery. Such criticism is a reaction to provisions in the Stafford Act that:

- (1) do not require any action remotely approaching a comprehensive, centralized, and integrated disaster mitigation, response, and recovery program with significant resources that can only be provided by the federal government;
- (2) delegate the responsibility of recovery to state and local governments and establish a bureaucratic process for requests by state and local governments for federal assistance, which have led to confusion and inaction with essential assistance delayed and in many instances ignored;
- (3) create no individual right to assistance and no process for governmental accountability, leaving people with few avenues of legal recourse for disaster relief;
- (4) do not address the specific material and humanitarian needs of people struggling to restore their lives and communities;
- (5) do not address immediate re-establishment of behavioral and physical health needs and follow-up crisis services; and
- (6) do not engage community members in priority mitigation, response, and recovery services, and related research and monitoring.

The Katrina Citizens Leadership Corps (KCLC) has embarked on developing policy recommendations for amending the Stafford Act to achieve effective disaster mitigation, response, and recovery. The KCLC report, *What It Takes to Rebuild a Village after a Disaster: Stories from Internally Displaced Children and Families of Hurricane Katrina* (July 2007), presents the recommendations for a national disaster standard that supports the fair and equitable restoration of lives and communities harmed by a national disaster.

To assist KCLC in its efforts, the matrix below presents the disaster response, mitigation, and recovery policies recommended by the KCLC, the US Conference of Mayors, the US Senate Homeland Security Committee, the Internal Displacement Project of the Brookings Institution and the University of Bern, Switzerland, and a Congressional Bill to amend the Stafford Act. The matrix shows that all of these recommendations have similarities that can support unified work to improve the current legal standard on national disasters. However, these recommendations also present differing goals for governmental disaster management. In particular, the KCLC wants to ensure that governmental resources ensure the recovery of people displaced by a disaster. The US Conference of Mayors wants city governments to have adequate funding and other support from the federal government. The Brookings-Bern Project wants national governments to protect the rights of internally displaced persons by establishing laws that adopt the UN *Guiding Principles on Internal Displacement*. And the Congressional Bill wants the President and the FEMA Administrator to make disaster communications, emergency transportation, coordination with state and local governments, and federal support more effective than it was during Hurricane Katrina.

KCLC Matrix of Recommendations for Amending the Stafford Act & Establishing New Federal Standards for Disaster Response, Mitigation, and Recovery

<p>National Disaster Recovery Issue</p>	<p>KCLC Report <i>What It Takes to Rebuild a Village: Lessons from Internally Displaced Children and Adults of Hurricane Katrina and Their Lessons for Our Nation</i> (July 2009)</p>	<p>US Conference of Mayors <i>Report of the Stafford Act Reform Task Force</i> (January 2010)</p>	<p>US State Homeland Security Committee <i>Comment Letter on the Draft National Disaster Recovery Framework</i> (February 26, 2010)</p>	<p>Brookings-Bern Project on Internally Displaced Persons <i>Protecting Internally Displaced Persons: A Manual for Law and Policymakers</i> (October 2008)</p>	<p>House Bill No. 3377 Amendment to the Stafford Act (July 2009)</p>
<p>Role and Responsibility of Federal Government</p>	<ul style="list-style-type: none"> - Recognize Hurricane Katrina survivors as "internally displaced persons" who have a right to a level of protection and assistance in keeping with the UN <i>Guiding Principles on Internal Displacement</i> (p. 38). - Adopt the UN <i>Guiding Principles on Internal Displacement</i> as the standard for federal response to a national disaster that causes population displacement (p. 38). - Convene a task force of federal departments and agencies to improve policies and practices involving disaster preparation and response, housing, public education, health and mental health care, voting rights and public participation, employment standards and programs, and environmental protection for the purpose of ensuring that displaced persons have the protections afforded by the UN <i>Guiding Principles on Internal Displacement</i> (p. 38). 	<ul style="list-style-type: none"> - Amend the Stafford Act to create a separate designation for "catastrophic disasters" as defined in the Department of Homeland Security's <i>National Response Framework</i> (Jan. 2008): "A catastrophic incident is defined as any natural or manmade incident, including terrorism, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale or governmental functions" (p. 1). - Under this amendment: <ul style="list-style-type: none"> • provide 100% of the funding for all eligible work and hazard mitigation, and streamline the process for getting the work done • assure that all modalities of mental health care are available and funded • provide the President with the authority to waive any Stafford Act provision and regulation • cover the rapid restoration of utilities • reimburse the cost for mass shelter including the multiple moves by evacuees before returning home • provide housing that meets the needs in disaster-affected communities and host communities (pp. 1-2). 	<ul style="list-style-type: none"> - Distinguish disaster recovery strategy for a "catastrophic," such as Hurricane Katrina, that includes special provisions for the extreme complications to recovery (p. 4). - FEMA should comply with Section 682 of the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006 that expanded FEMA's responsibilities, mission, capabilities, and resources to prepare for, protect against, respond to, recover from, and mitigate against the risk of disasters (p. 2). NOTE: FEMA failed to meet the deadline of 270 days from enactment of PKEMRA for developing the "National Disaster Recovery Strategy." However, the FEMA Director promised that the National Disaster Recovery Framework would address all of PKEMRA's 682 requirements (pp. 2-3). - PKEMRA requires a definition of the responsibilities of federal departments, agencies, and officials to provide disaster assistance (p. 2). - PKEMRA requires a description of the programs and funding within each federal agency to provide recovery assistance (p. 4). 	<p>NOTE: IDP = internally displaced person</p> <ul style="list-style-type: none"> - Adopt a definition of internally displaced person to determine the applicability of laws and policies. - Recognize the right of any IDP to be protected from discrimination on the basis of displacement as well as other grounds such as race, color, sex, language, etc. - Provide for measures that cover all three aspects of displacement: (1) preventing or minimizing displacement, (2) responding to needs in the immediate phase of displacement; and (3) establishing conditions to ensure recovery. - Raise awareness and provide training on the rights of IDPs. - Establish systems for the collection & protection of relevant data. - Designate federal, state, local departments responsible for addressing IDP issues. - Vest an institution with the responsibility to monitor report on the protection of the rights of IDPs. - Ensure that IDPs participate in all matters affecting them, and have sufficient information to make voluntary decisions. 	<p>See provisions in the categories below detailing the role and responsibilities of the President and the FEMA Administrator.</p>

<p>National Disaster Recovery Issue</p>	<p>KCLC Report: What It Takes to Rebuild a Village: Lessons from Internally Displaced Children and Adults of Hurricane Katrina and Their Lessons for Our Nation (July 2009)</p> <ul style="list-style-type: none"> - Design disaster prevention and mitigation programs with the participation of people affected by a disaster (p. 39). - Improve policies and practices on environmental protection (such as flood protection, infrastructure and coastal restoration) to mitigate a disaster (p. 38). 	<p>US Conference of Mayors Report of the Stafford Act Reform Task Force (January 2010)</p> <ul style="list-style-type: none"> - Provide the President with the discretion to mandate that the federal government cover 100% of the costs to an affected jurisdiction whether or not the jurisdiction is in a county with an approved hazard mitigation plan (p. 2). - Provide direct funding to communities in proportion to the damage done by the event (pp. 2-3). - Provide adequate funding for cities to staff, train, and develop/implement disaster plans (p. 7). - Honor the state licenses/certifications for emergency service personnel assisting other affected states (p. 7). - Provide expeditious reimbursement to states that provide mutual aid (p. 7). - Develop a national emergency transportation evacuation plan (p. 7). - Accept governor's requests for a disaster declaration; base the declaration on a specific geographic location, i.e., city, township, and borough (p. 7). 	<p>US Senate Homeland Security Committee: Comment Letter on the Draft National Disaster Recovery Framework (February 26, 2010)</p> <p>Develop plans and procedures to make the most of critical mitigation opportunities in the <i>National Disaster Recovery Framework</i> (p. 5).</p> <p><i>NOTE: A Congressional study found that \$4 are saved in disaster response and recovery for every \$1 spent on disaster mitigation.</i></p>	<p>Brookings-Hern Project on Internally Displaced Persons: Proceeding Internally-Displaced Persons: A Manual for Law and Policymakers (October 2008)</p> <p>Provide for measures that prevent or minimize displacement.</p> <ul style="list-style-type: none"> - Create a mechanism for providing humanitarian assistance to IDPs that: sets the obligations of and provides resources for federal and local govt.; identifies the beneficiaries based on need; sets criteria for delivery of assistance; eliminates any bureaucratic obstacles to assisting IDPs. - Recognize the right of IDPs to freedom of movement by abolishing any bureaucratic obstacle limiting IDPs to reach safe areas or, when conditions allow, return to their homes. 	<p>House Bill No. 3377: Amendment to the Stafford Act (July 2009)</p> <ul style="list-style-type: none"> - Authorizes funding for predisaster hazard mitigation (§101). - Increases the level of assistance to states that adopted a nationally recognized model building code (§201). <ul style="list-style-type: none"> - Requires modernization of predisaster warning system (§102) - Establishes a National Urban Search and Rescue system (§105) - Creates a Disaster Relief Fund that is capped at \$300 million (§106). - Provides at least 75% of the cost share for emergency communications & transportation (§203). - Provides the Community Emergency Response Team w/ \$30 mill 2010, \$35 mill 2011, \$40 mill 2012. (§206). <p>Amends current disaster grantmaking to states and local governments (§208).</p>
<p>Disaster Prevention and Mitigation</p>					
<p>Emergency Preparedness & Response</p>					
<p>Disaster Grants</p>					

<p>National Disaster Recovery Fund</p>	<p>KCIC Report: What It Takes to Rebuild a Village: Lessons From Internally Displaced Children and Adults of Hurricane Katrina and Their Lessons for Our Nation (July 2009)</p>	<p>US Conference of Mayors - Report of the Stafford Act Reform Task Force (January 2010)</p>	<p>US Senate Homeland Security Committee - Comment Letter on the Draft National Disaster Recovery Framework (February 26, 2010)</p>	<p>Brankage-Bern Project on Internally Displaced Persons: Protecting Internally Displaced Persons: A Manual for Law and Policymakers (October 2008)</p>	<p>House Bill No. 3377 - Amendment to the Stafford Act (July 2009)</p>
<p>Insurance</p>	<ul style="list-style-type: none"> - Waive proof of insurance for individuals as a requirement for temporary assistance; require reimbursement when and if insurance claim payments are provided (p. 5). - Ease the burden of insurance requirements on jurisdictions seeking public assistance funds (p. 5). 	<ul style="list-style-type: none"> - Create a national "Case Management Program" (p. 4). - Fund for food, transportation, hotels, and multiple moves (p. 4). - Provide temporary mortgage and rental payments (p. 4). - Provide safe/secure living conditions for victims of domestic violence (p. 4). - Ensure that local communities are stakeholders in the coordination of disaster assistance programs (p. 4). - Authorize the President to use emergency funds to repair housing; provide housing in affected and host communities (p. 4). 		<ul style="list-style-type: none"> - Recognize the right to adequate housing for IDPs. - Designate an agency responsible for addressing housing needs of IDPs. - Establish a process for identifying and prioritizing beneficiaries of adequate housing based on need and particular vulnerability. - Remove legal obstacles to building and providing temporary housing and rebuilding houses in return or relocation areas. - Create specific guarantees to protect IDPs against forced evictions. 	<ul style="list-style-type: none"> - Provides temporary payments for those with financial hardship at risk of foreclosure, eviction, etc. for no more than 18 months (\$202). - Requires plan for storage, suitability, sale, and disposal of temporary housing (\$205).
<p>Individual & Household Assistance</p>	<ul style="list-style-type: none"> - Develop a comprehensive social service delivery system that provides disaster planning information and coordinate the provision of social services, food, housing, transportation, mental & physical health care, education, family reunification for the duration of displacement (pp. 38-39). - Support both displaced homeowners and displaced renters of private and/or subsidized housing to access affordable rental housing and first-time homeowner programs (p. 39). - Make temporary housing assistance available for the duration of displacement (p. 39). - Prohibit the use of funds for projects that arbitrarily displace communities (p. 39). - Create affirmative hiring and job training programs for affected residents (p. 39). 				

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<p>National Disaster Recovery Issue</p>	<p>KCIC Report: What It Takes to Rebuild a Village: Lessons from Internally Displaced Children and Adults of Hurricane Katrina and Their Lessons for Our Nation (July 2009)</p>	<p>US Conference of Mayors Report of the Sigford Act Reform Task Force (January 2010)</p>	<p>US Senate Homeland Security Committee Comment Letter on the Draft National Disaster Recovery Framework (February 26, 2010)</p>	<p>Brookings- Bern Project on Internally Displaced Persons: Protecting Internally Displaced Persons: A Manual for Law and Policymakers (October 2008)</p>	<p>House Bill No. 3377 Amendment to the Stafford Act (July 2009)</p>
<p>Education</p>	<ul style="list-style-type: none"> - Ensure that education effectively addresses the needs of the whole child by establishing for parents/guardians voluntary social services and education programs that include access to health care, early childhood education, school and home visits by social workers certified to provide culturally relevant counseling services, and school and home visits by tutors to assist displaced children who have a lapse or interruption in their education (p. 39). - Prioritize the rebuilding of schools, educational, and recreational facilities in a disaster-stricken area (p. 39). - Prioritize supporting the recovery of teaching staff and school faculty (p. 39). 			<ul style="list-style-type: none"> - Recognize the right of IDPs to receive primary school education that is either free or provided on a favorable basis as it would be for poor members of the host community. - Abolish administrative obstacles that may unreasonably or discriminatorily limit access to schools because they do not sufficiently take into account the specific problems faced by IDPs. - Establish a clear obligation of a competent authority to provide education to IDPs located in areas inaccessible to existing schools. 	
<p>Healthcare</p>	<ul style="list-style-type: none"> - Ensure that displaced children and adults have access to adequate health care services that are not restricted as a result of lost medical documents or legal documents (p. 39). - Ensure that health programs for children and adults include culturally relevant health services, crisis counseling, and therapeutic treatment for the duration of displacement (p. 39). 			<ul style="list-style-type: none"> - Recognize the right of health for IDPs. - Designate an agency to provide health services to IDPs when health services are inaccessible. - Establish a process to identify and prioritize beneficiaries of health services based on need and particular vulnerability. - Waive requirements that limit or exclude access of IDPs to health services and for free access to health services based on need and particular vulnerability. 	

<p>National Disaster Recovery Issue</p>	<p>KCIC Report: What It Takes to Rebuild a Village: Lessons from Internally Displaced Children and Adults of Hurricane Katrina and Their Lessons for Our Nation (July 2009)</p>	<p>US Conference of Mayors Report of the Stafford Act Reform Task Force (January 2010)</p>	<p>US Senate Homeland Security Committee Comment Letter on the Draft National Disaster Recovery Framework (February 26, 2010)</p>	<p>Brookings, Horn Project on Internally Displaced Persons Protecting Internally Displaced Persons: A Manual for Law and Policymakers (October 2008)</p>	<p>House Bill No. 3177 Amendment to the Stafford Act (July 2009)</p>
<p>Employment</p>	<ul style="list-style-type: none"> - Create affirmative hiring of and job training programs for displaced residents on reconstruction projects and disaster recovery operations (p. 39). - Investigate and penalize government contractors for unsafe working conditions and unfair compensation on reconstruction projects (p. 39). 			<ul style="list-style-type: none"> - Recognize the right to work and the right to social security for IDPs - Take specific measures to protect IDPs against discrimination in the labor market and access to social security benefits. - Direct existing governmental agencies responsible for labor and social security to specifically evaluate and take responsive action to unique problems faced by IDPs. - Provide for measures that help IDPs regain their livelihoods or engage in new economic activities. 	
<p>Voting Rights & Public Participation</p>	<p>Convene a task force of federal departments and agencies to improve policies and practices pertaining to voting rights and public participation for the purpose of ensuring that displaced persons are able to fully enjoy the protection and assistance afforded by the UN Guiding Principles on Internal Displacement (pp. 38-39)</p>			<ul style="list-style-type: none"> - Provide mechanisms for IDPs to register as voters even during displacement. - Allow IDPs to cast votes at the location of displacement for either the constituency of origin (exp. absentee vote) or the constituency of displacement. 	
<p>Discrimination</p>				<p>Recognize the right of any IDP to be protected from discrimination on the basis of displacement as well as other grounds such as race, gender, language, etc.</p> <p><i>NOTE: The UN Guiding Principles prohibit displacement that is aimed at or results in altering the racial, ethnic, or religious composition.</i></p>	

Written Statement of
Diana Rothe-Smith
Executive Director
National Voluntary Organizations Active in Disaster
Hearing: Stafford Act Reform: Sharper Tools for a Smarter Recovery
May 12, 2010, Room 342 of the Dirksen Senate Office Building
United States Senate Committee on Homeland Security and Governmental Affairs
Ad Hoc Subcommittee on Disaster Recovery

Thank you for the opportunity to submit written statement about Stafford Act Reform and the impact on voluntary agencies.

Background

The National Voluntary Organizations Active in Disaster, or National VOAD as we are more commonly known, is made up of the 50 largest disaster-focused nonprofit organizations in the country. From the American Red Cross to Catholic Charities and The Jewish Federations of North America—from the Salvation Army to Feeding America and Habitat for Humanity International—our member organizations are the driving force behind disaster response, relief and recovery in this country. There are 50 national nonprofit members, 53 State and Territory VOADs, and hundreds of local and community VOADs throughout the United States.

Historically, voluntary agencies have partnered with survivors from initial response through their recovery, and have done so successfully without uniformed standardization. In recent years, however, catastrophic disasters, changes in funding and the Stafford Act, and emerging organizations providing direct services have necessitated us to look anew at how we define and implement the programs we provide. Recognizing that humanitarian assistance is most effective when implemented by local partners as part of a coordinated effort for community recovery, National VOAD members have worked to more clearly define these roles and services through Points of Consensus, manuals and tools, direct training and technical assistance, and other guidance. Included in this written statement are the three currently approved Points of Consensus for spiritual care, disaster case management, and rebuilding and repair. By 2011, National VOAD hopes to also offer Points of Consensus for mass care, volunteer management, donation management, and working with diverse communities outside the continental United States.

Additionally, National VOAD members have worked with FEMA and other federal and state partners to develop the Disaster Multi Agency Feeding Template, a tool for local communities when developing their own mass feeding plans in response to disasters. This tool, also included in this written statement, supports the integrated, interdependent system this country has for providing disaster assistance.

National VOAD is also creating the first National Nonprofit Relief Framework. Structured and modeled upon the National Response Framework and to serve as a companion to it and the National Disaster Recovery Framework, the National Nonprofit Relief Framework more clearly defines how the nonprofit community in general and the National VOAD members in particular

respond to disaster in a cooperative and collaborative manner. This document is scheduled to be released in December of this year.

All of this work is being done to stress the role of the voluntary organizations as part of a very elaborate and well coordinated team of support for communities in response to disasters.

Current Stafford Act Interpretations

The Stafford Act includes voluntary agencies as part of this national team. Specifically:

Sec. 302

Coordinating Officers (42 U.S.C. 5143)*

(a) Appointment of Federal coordinating officer - Immediately upon his declaration of a major disaster or emergency, the President shall appoint a Federal coordinating officer to operate in the affected area.

(b) Functions of Federal coordinating officer - In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall (1) make an initial appraisal of the types of relief most urgently needed; (2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599) and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) State Coordinating officer - When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

(d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate

Sec. 309

Use and Coordination of Relief Organizations (42 U.S.C. 5152)

(a) In providing relief and assistance under this Act, the President may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the President finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

Sec. 403

Essential Assistance (42 U.S.C. 5170b)*

2) Medicine, durable medical equipment, food, and other consumables - Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, durable medical equipment, food, and other consumable supplies, and other services and assistance to disaster victims

While these provisions exist, they are not often evoked in a logical and consistent manner. The current interpretation of the Stafford Act precludes relief and disaster assistance organizations like the National VOAD members from receiving direct financial assistance to provide their services. However, if reviewed more clearly, the above provisions allow for relief and disaster assistance organizations to work with and therefore have access to information on the coordinated response; use of federal facilities, supplies, and services; and for the purpose of distribution to disaster victims, access to medicine, durable medical equipment, food and other consumable supplies. For example, while recent changes to the Stafford Act have allowed for direct funding to support disaster case management through state and federal entities, they have not provided for national nonprofits to provide this support, despite their proven superiority in service delivery. The Stafford Act has also not provided for any direct services that would more readily support and ultimately close these cases in a timely and forthright manner. In other words, a State may be able to support the management of the case but may not have the financial ability to provide the construction services, mental health services, and childcare necessary to fulfill the needs expressed within that case. These relief and disaster assistance organizations like the members of National VOAD rely most heavily on the generosity and goodwill of the American people to fulfill these needs. However, in extreme cases, they can and should be able to work directly with federal partners to receive and provide assistance.

When Hurricanes Katrina and Rita occurred, several members of National VOAD participated in a first-of-its-kind case management program. Katrina Aid Today put case managers in jobs not only along the Gulf Coast but around the country, in all of the places where evacuees had been re-settled. This program was initially funded by international donations through FEMA which were then matched with additional nonprofit contributions. Katrina Aid Today was the most comprehensive, collaborative national disaster case management program in the history of the United States. Because of its long history providing disaster case management, the United Methodist Committee on Relief (UMCOR) was chosen as the lead agency for nine partnering faith-based and voluntary organizations.

One of the partners, Lutheran Disaster Response, was given \$7 million as a consortium member, and per the various agreements, it matched that with \$7 million of their own donor contributions. With this funding case managers were hired who found over \$29 million worth of resources for their clients. Lutheran Disaster Response could have taken the \$14 million and 11,000 clients and divided it up equally to cut everyone a check. Instead, they found valuable ways to help their clients recover, and they more than doubled their resources in the process. It is important to highlight that the only tax dollars spent were used to link survivors and families to FEMA grants, but the real value added is almost immeasurable.

Unfortunately, in the time since Katrina, our country has entered into a new reality. Non-profit groups are hurting as a struggling economy means a dip in contributions. An increase in recent disasters also means fewer resources to go around. 2008 and 2009 were some of the most active disaster years on record. This means that the resources which were once available for clients have decreased or even dried up all together. Because we know that disasters disproportionately impact communities that were already hurting, we are working in communities that were not well-resourced to begin with. For this reason, survivors of Hurricane Ike or the vast flooding in the Midwest did not see the type of return on investment that was seen from Katrina Aid Today. These communities and the nonprofit partners that comprised the local long term recovery groups are making incredible strides to meet the needs of their clients, despite these increasing hurdles. However, many of them lack the public/private partnership that made Katrina Aid Today such an overwhelming success.

In a Fall 2009 meeting of the National VOAD Board of Directors, FEMA Administrator Craig Fugate talked about putting blue tarps on the roofs of homes impacted by hurricanes in Florida. When there were several thousand homes needing to be tarped, it made the most sense to work through the U.S. Army Corps of Engineers (CoE). The CoE can leverage dollars for major contracts and do the work professionally and efficiently. However, when there were several hundred homes, Administrator Fugate said that he relied then on the voluntary agencies. These agencies' volunteers could tarp all of the roofs in the time it would take the Army Corps to put out a call for contract bids, and do the work with the same professionalism and dedication—and all for only the cost of the tarps themselves.

This is part of the issue. While case managers are the backbone of recovery, case management only works if there are supplies and resources to fulfill the needs of the clients. There is only so much government systems can do to fill these resources. Much of the work is filled by the

voluntary agencies and the volunteer labor and donated dollars they bring with them. Again, we find the public/ private partnership invaluable.

Last summer, the Yukon River flooded in Alaska. A combination of freezing flood waters and huge ice bolders wiped out several dozen villages along its banks. The conditions for recovery were extreme—with barge or plane the only mode of transport for all but one of the communities, and a window of 10 weeks for all repairs and rebuilds to be completed before the winter settled in. Through an extremely unique and collaborative partnership between local community members; Alaska-based long term recovery groups and faith based organizations; national voluntary agencies; the State of Alaska and FEMA, the survivors were able to be in their new or repaired homes by the middle of September. The financial picture is clear—FEMA provided travel for the volunteers and transport for the supplies, as well as many of the supplies themselves; the national voluntary agencies provided labor, housing, and additional financial resources. Most importantly, these families were able to stay in their local communities. They did not need to be housed hundreds of miles away in Fairbanks for several months. They could continue to maintain their local customs and economy.

What is most interesting about National VOAD member involvement in this program is not only the tremendous cost savings of the response, but also the fact that the job could not be completed without their work or the ancillary work that would not have been completed using contract labor. It is the immeasurable cost savings that will be realized in the long term recovery process that results directly from the involvement of these faith based and charitable organizations.

Revisions and Additions to the Stafford Act

Given National VOAD's role in disaster relief and recovery over the last forty years, its role in the National Response Framework, and our recently updated Memorandum of Understanding with the Federal Emergency Management Agency (included in this written statement), the position of National VOAD and the roles of its members in disaster response and recovery are clear. National VOAD members should be listed specifically in the Stafford Act in all areas that include "State and local government, American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations."

Additionally, National VOAD members should be included in the Title VI- Emergency Preparedness, to allow for financial support and access to facilities and other federal resources for emergency preparedness actions that will increase the response time for our nonprofit members to respond to disasters. Most of the financial assistance received from the general public comes after the disaster impact. While well received and managed this causes an obvious delay in the ability for these agencies to respond as quickly as they may wish.

Section 602 (j)

Financial contributions -

(1) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

(3) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

(4) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not

necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for emergency preparedness purposes.

(8) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection. (9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis- Bacon Act, 40 U.S.C. 276a - 276a-5), and every such employee shall receive compensation at a rate not less than one and 1/2 times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 276c of title 40.

Conclusion

The instinct to create further levels of bureaucracy is rarely appropriate given the power of voluntary agencies to complete the work faster, cheaper, and with a keener sense of the community's underlying needs. The more resources that find their way to these organizations and without having to pass several layers of red tape, the more real work can be done for the people who need it. The Stafford Act appears to provide for this, but these Sections are often not used to get federal dollars, equipment, supplies, and services directly to the national nonprofits, like the members of the National Voluntary Organizations Active in Disaster, that will use them most effectively.



NATIONAL VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER POINTS OF CONSENSUS

DISASTER SPIRITUAL CARE

In 2006 the National Voluntary Organizations Active in Disaster's Emotional and Spiritual Care Committee published Light Our Way to inform, encourage and affirm those who respond to disasters and to encourage standards insuring those affected by disaster receive appropriate and respectful spiritual care services. As a natural next step following the publication of Light Our Way and in the spirit of the NVOAD "Four C's" (cooperation, communication, coordination and collaboration), the Emotional and Spiritual Care Committee then began working to define more specific standards for disaster spiritual care providers. The following ten "points of consensus" set a foundation for that continuing work.

1. Basic concepts of disaster spiritual care¹

Spirituality is an essential part of humanity. Disaster significantly disrupts people's spiritual lives. Nurturing people's spiritual needs contributes to holistic healing. Every person can benefit from spiritual care in time of disaster.

2. Types of disaster spiritual care²

Spiritual care in disaster includes many kinds of caring gestures. Spiritual care providers are from diverse backgrounds. Adherence to common standards and principles in spiritual care ensures that this service is delivered and received appropriately.

3. Local community resources

As an integral part of the pre-disaster community, local spiritual care providers and communities of faith are primary resources for post-disaster spiritual care. Because local communities of faith are uniquely equipped to provide healing care, any spiritual care services entering from outside of the community support but do not substitute for local efforts. The principles of the National VOAD - cooperation, coordination, communication and collaboration - are essential to the delivery of disaster spiritual care.

4. Disaster emotional care and its relationship to disaster spiritual care³

Spiritual care providers partner with mental health professionals in caring for communities in disaster. Spiritual and emotional care share some similarities but are distinct healing modalities. Spiritual care providers can be an important asset in referring individuals to receive care for their mental health and vice versa.

5. Disaster spiritual care in response and recovery⁴

Spiritual care has an important role in all phases of a disaster, including short-term response through long-term recovery. Assessing and providing for the spiritual needs of individuals, families, and communities can kindle important capacities of hope and resilience. Specific strategies for spiritual care during the various phases can bolster these strengths.

¹ See Light Our Way pp. 52-54. ² *Ibid.* ³ *Ibid.* ⁴ *Ibid.*

6. Disaster emotional and spiritual care for the care giver

Providing spiritual care in disaster can be an overwhelming experience. The burdens of caring for others in this context can lead to compassion fatigue. Understanding important strategies for self-care is essential for spiritual care providers. Disaster response agencies have a responsibility to model healthy work and life habits to care for their own staff in time of disaster.⁵ Post-care processes for spiritual and emotional care providers are essential.

7. Planning, preparedness, training and mitigation as spiritual care components⁶

Faith community leaders have an important role in planning and mitigation efforts. By preparing their congregations and themselves for disaster they contribute toward building resilient communities. Training for the role of disaster spiritual care provider is essential before disaster strikes.

8. Disaster spiritual care in diversity

Respect is foundational to disaster spiritual care. Spiritual care providers demonstrate respect for diverse cultural and religious values by recognizing the right of each faith group and individual to hold to their existing values and traditions. Spiritual care providers:

- refrain from manipulation, disrespect or exploitation of those impacted by disaster and trauma.
- respect the freedom from unwanted gifts of religious literature or symbols, evangelistic and sermonizing speech, and/or forced acceptance of specific moral values and traditions.⁷
- respect diversity and differences, including but not limited to culture, gender, age, sexual orientation, spiritual/religious practices and disability.

9. Disaster, trauma and vulnerability

People impacted by disaster and trauma are vulnerable. There is an imbalance of power between disaster responders and those receiving care. To avoid exploiting that imbalance, spiritual care providers refrain from using their position, influence, knowledge or professional affiliation for unfair advantage or for personal, organizational or agency gain.

Disaster response will not be used to further a particular political or religious perspective or cause – response will be carried out according to the need of individuals, families and communities. The promise, delivery, or distribution of assistance will not be tied to the embracing or acceptance of a particular political or religious creed.⁸

10. Ethics and Standards of Care

NVOAD members affirm the importance of cooperative standards of care and agreed ethics. Adherence to common standards and principles in spiritual care ensures that this service is delivered and received appropriately. Minimally, any guidelines developed for spiritual care in times of disaster should clearly articulate the above consensus points in addition to the following:

- Standards for personal and professional integrity
- Accountability structures regarding the behavior of individuals and groups
- Concern for honoring confidentiality*
- Description of professional boundaries that guarantee safety of clients* including standards regarding interaction with children, youth and vulnerable adults
- Policies regarding criminal background checks for service providers
- Mechanisms for ensuring that caregivers function at levels appropriate to their training and educational backgrounds*
- Strong adherence to standards rejecting violence against particular groups
- Policies when encountering persons needing referral to other agencies or services
- Guidelines regarding financial remuneration for services provided

⁵ Ibid. ⁶ Ibid. ⁷ Church World Service "Standard of Care for Disaster Spiritual Care Ministries" ⁸ Church World Service "Common Standards and Principles for Disaster Response" *See [Light Our Way](#) p. 16



NATIONAL VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER POINTS OF CONSENSUS

DISASTER CASE MANAGEMENT

1. Disaster Case Managers deployed by voluntary organizations play a unique role in the recovery of individuals and families. Voluntary organizations:
 - complement the services provided by governmental agencies; and
 - deliver Disaster Case Management services in fulfillment of their voluntary missions with respect for and knowledge of the local community.
2. Disaster Case Management Standards provide voluntary organizations with guidance that promotes standardized delivery of Disaster Case Management services. Disaster Case Management Organizations establish policies and practices which reflect the National VOAD Disaster Case Management Values and Standards.
3. Disaster Case Managers embrace the following underlying values for service:
 - Our commitment to caring and compassion for all people is the foundation for all we do.
 - Our work is accomplished in a respectful, non-judgmental, and non-discriminatory manner.
 - Trust, mutual respect, and equal partnerships of survivors and community service providers are essential elements of our work.
 - All people have inherent dignity, worth and autonomy.
 - Human relationships are essential to hope and healing.
 - Integrity is an essential component of our work and service in helping survivors navigate their recovery.
4. Disaster Case Management is a time-limited process¹ by which a skilled helper (Disaster Case Manager) partners with a disaster affected individual or family (Client) in order to plan for and achieve realistic goals for recovery following a disaster. This comprehensive and holistic Disaster Case Management approach to recovery extends beyond providing relief, providing a service, or meeting urgent needs.
5. The Disaster Case Manager serves as a primary point of contact, assisting the Client in planning and coordinating necessary services and resources to address the client's complex disaster recovery needs in order to re-establish normalcy. Disaster Case Managers rely on the Client to play an active or lead role in their own recovery.
6. Disaster Case Management Organizations work together with community partners to overcome barriers which may otherwise prevent clients from accessing services and resources necessary for recovery.
7. Disaster Case Management personnel are qualified as determined by the Voluntary Organization by life experience, skills, education, and training to access and coordinate services on behalf of clients. Disaster Case Managers may be Employees or Volunteers.
8. Disaster Case Managers have specialized knowledge and skills regarding disaster recovery resources, advocacy and case presentation, assessment of the survivors and disaster recovery planning, the potential impact of the disaster on survivors' over-all well-being and ability to cope, and the recovery needs of vulnerable populations after a disaster.
9. Disaster Case Managers and Organizations respect the client's right to privacy, protect client's confidential information, and maintain appropriate confidentiality when information about the client is released to others.
10. In communities wherein multiple organizations provide disaster case management and supportive recovery services, technical systems should be used to reduce duplicative case management efforts and to facilitate coordination between organizations and systems across the continuum of care.

¹ Engagement, Intake and Screening, Assessment, Recovery Planning, Action and Advocacy, Monitoring, Closure



NATIONAL VOLUNTARY ORGANIZATIONS ACTIVE IN DISASTER POINTS OF CONSENSUS

REPAIR AND REBUILD

National VOAD members agree to adhere to the following:

1. Long term recovery assistance will be provided with dignity and in a respectful, non-judgmental, and non-discriminatory manner.
2. Repairs and rebuilds will be done, at a minimal level, in accordance with the International Residential Code and local codes, with local codes prevailing if there is a discrepancy between the two. We agree to aspire to the highest workmanship feasible.¹

Members will encourage Long Term Recovery Groups to repair and rebuild above and beyond the International Residential Code and local codes. As a part of a larger commitment to our donors and the communities where we work we will adhere to the following guidelines:

- Repair and rebuild with materials and practices that are energy efficient.²
 - Mitigation practices will be used whenever possible to minimize the risk of future events.³
3. Repairs and rebuilds for disabled clients will be done in a way that gives the client needed access to the home. ADA standards, while not required under residential building code, should be considered and used whenever feasible.⁴
 4. Skilled construction person(s) will be available to supervise all volunteer work, and offer guidance throughout the long term recovery process.
 5. Local character of the client's community and cultural norms will be respected as they pertain to the repairing and rebuilding of the client's home. This may depend upon the resources available to the LTRC.
 6. Assist clients who have gone through a case management process consistent with the National VOAD Case Management Points of Consensus.⁵
 7. Safety standards must be in place for field staff and volunteers prior to the start of construction projects.

¹ For more information see <http://www.iccsafe.org/> ² For more information see Southface (<http://www.southface.org/>), The Energy & Environmental Building Alliance (<http://www.eeba.org/>), and the U.S. Department of Energy (<http://www1.eere.energy.gov/buildings/residential/>). ³ For more information see FEMA's Mitigation Best Practices (<http://www.fema.gov/plan/prevent/bestpractices/index.shtml>) and the Federal Alliance for Safe Home (<http://www.flash.org/>). ⁴ For more information see <http://www.ada.gov/> ⁵ For NVOAD case management standards see <http://www.nvoad.org/>

MULTI-AGENCY FEEDING PLAN TEMPLATE**Multi-Agency Feeding Plan Template (MAFPT) Guidance****A. Purpose for the Template**

This Template provides suggested guidance and procedures for a jurisdiction to consider in the development of a multi-agency feeding plan and a coordinating group (the Feeding Task Force (FTF)) that supports feeding assistance in advance of, during and after a disaster throughout the impact area(s) of the State. It stresses coordination among the various organizations/agencies participating in feeding operations. These organizations/agencies include: Federal, State, tribal and local government entities, non-government organizations (NGOs), National and State Voluntary Organizations Active in Disaster (VOADs) member organizations and other voluntary organizations involved with feeding operations* and the private sector.

Additionally, the Template can serve as an educational tool assisting jurisdictions, NGOs, Private Sector and other stakeholders providing feeding support to understand the complexities of implementing a coordinated and collaborative feeding operation. This includes understanding both the feeding protocols of the various feeding providers and the government entities. The effective and efficient request and receipt of resources will ensure that the process of integrating Federal, State, tribal and local resources will be streamlined.

B. Primary NGO Feeding Organizations

** The primary feeding organizations include: The Salvation Army, American Red Cross, Southern Baptist Disaster Relief, Convoy of Hope and Operation Blessing International. Feeding America and Adventist Community Services are support organizations to feeding missions.*

C. Document Format

The format used for this Template is consistent with the Federal Emergency Management Agency (FEMA) Comprehensive Planning Guidance (CPG) documents being developed to assist State and local governments with their planning efforts.

1. Template Guidance

- The Guidance is not part of the Template. It is a tool for individuals working with the States to introduce the planning concepts.

Multi-Agency Feeding Plan Template

1. Section Format

- **Boxed Text:** These boxes provide the definition of what information should be included in the respective section. The boxes should not be included in the final Plan.
- **Verdana Font Text:** The text written in **Verdana font** denotes planning guidance.
- ***SAMPLE:*** *The samples given in each section are to assist the planners in understanding the content needed to be included within the section. They are not necessarily realistic scenarios.*
- **Checklist Boxes:** The checklists help to identify key elements that need to be included in a specific section.

NOTE: Emergency Support Function (ESF) #6: The use of the terminology Federal ESF #6 within this document refers to the Mass Care/Emergency Assistance functions of the ESF #6 function as defined in the *National Response Framework* and State ESF #6 refers to the function as defined by the State plan.

Questions for the Record
Stafford Act Reform: Shaper Tools for a Smarter Recovery
 May 12, 2010
 From Senator Mary Landrieu to Administrator Fugate

1) Under your leadership, FEMA has undertaken a comprehensive inventory of internal policies related to Stafford Act programs. You indicated in your testimony that FEMA has reviewed 84 disaster assistance policies and recommended changes to 6 Individual Assistance (IA) Policies and 17 Public Assistance (PA) Policies.

- Can you provide the Subcommittee with more information on the specific policies that have been revised and the types of changes you have made?

Response:

Since June 2009, Individual Assistance (IA) has issued one policy:

- Recovery Policy 9445.1, Individual and Households Program (IHP): Assistance for Privately Owned Access Routes
 - o This policy clarifies the circumstances and criteria under which FEMA will provide assistance to repair or replace privately owned access routes under the IHP.

In addition, IA will convert four policies to Standard Operating Procedures (SOPs).

Since June 2009, Public Assistance (PA) has issued the following revised and new fact sheets and policies:

- Disaster Assistance Policy DAP9524.10, Replacement of Equipment, Vehicles, and Supplies
 - o FEMA amended this policy to provide increased flexibility for funding the replacement of equipment, vehicles, and supplies damaged or destroyed by a disaster. Previous FEMA policy limited funding for the replacement of damaged equipment, vehicles, and supplies to the same number of items of approximately the same age, capacity, and condition. Following a major disaster, applicants may determine that replacing damaged or destroyed equipment, vehicles or supplies with the exact number and capacity of the destroyed equipment, vehicles and supplies is not cost-effective or in the public interest. This policy provides increased flexibility in funding for the replacement items.
- Disaster Assistance Fact Sheet 9580.6, Electric Utility Repair (Public and Private Nonprofit)
 - o FEMA developed this fact sheet to establish criteria to determine eligibility for repair or replacement of disaster-damaged electric distribution and transmission systems under the authority of rural electric cooperatives, municipal electric utilities, public power districts, and other public entities following a major disaster or emergency declaration by the President.
- Disaster Assistance Fact Sheet 9580.8, Eligible Sand Replacement on Public Beaches
 - o This policy addresses eligibility requirements for Public Assistance to fund replacement of sand on damaged public beaches
- Disaster Assistance Fact Sheet 9580.204, Documenting and Validating Hazardous Trees, Limbs, and Stumps
 - o FEMA amended this fact sheet to provide guidance on the documentation required to obtain Public Assistance funding for the removal of hazardous trees, limbs, and stumps. It also describes the process FEMA will use to validate applicants' requests for reimbursement.

- Recovery Policy 9526.1, Hazard Mitigation Funding Under Section 406 (Stafford Act)
 - o FEMA amended this policy to reflect the alignment of benefit cost analysis methodologies between Mitigation and Recovery Directorates. The Public Assistance Division has adopted the Mitigation Directorate's Benefit Cost Analysis (BCA) methodology for Section 406 hazard mitigation projects. Previously, the only benefits considered in the BCA were damage to the facility and its damaged contents, necessary emergency protective measures and temporary relocation assistance. FEMA also changed this policy to consider social net benefits (e.g., loss of function, casualty, and cost avoidance) in the BCA.
- Recovery Policy 9523.5, Debris Removal from Waterways
 - o FEMA developed this new policy to provide guidance for determining the eligibility of debris removal from navigable waterways, the coastal and inland zones, and wetlands under the Public Assistance program. This policy clarifies the roles and responsibilities of FEMA, the U.S. Army Corps of Engineers (USACE), and the U.S. Coast Guard (USCG) in removing debris wreckage, and sunken vessels from waterways.
- Recovery Policy 9580.102, Permanent Relocation
 - o FEMA amended this fact sheet, which provides guidance on eligibility for the permanent relocation of a disaster damaged facility under the provisions of the Public Assistance program.
- Recovery Policy 9580.107, Public Assistance for Child Care Services
 - o FEMA developed this new fact sheet to describe eligible child care services and facilities under the Public Assistance Program.
- Recovery Policy 9523.1, Snow Assistance Policy
 - o This revised policy made the following changes:
 - Under this revised policy, snowstorm events will be considered by FEMA for major disaster declarations under 44 CFR §206.36, Requests for major disaster declarations.
 - Under this revised policy, FEMA compares the highest current event snowfall reported by the National Weather Service to the highest National Climatic Data Center historical record in a county to determine if the snowfall event exceeds or is near a true record for a county.
 - Finally, under this revised policy, States are now required to submit an estimate of eligible Public Assistance costs including assistance costs for a 48-hour period that meets or exceeds the county and statewide per capita cost threshold.
- Recovery Policy 9523.17, Emergency Assistance for Human Influenza Pandemic
 - o This revised policy establishes the types of emergency protective measures that are eligible under the Public Assistance program during a Federal response to an outbreak of human influenza pandemic.
- Recovery Policy 9580.105, H1N1 Frequently Asked Questions (FAQ)
 - o This new fact sheet expands upon existing FEMA guidance to clarify the eligibility of Public Assistance emergency protective measures in the event of an emergency declaration as a result of the H1N1 influenza.
- Recovery Policy 9523.7, Public Housing Authorities (PHAs)
 - o This fact sheet replaced Disaster Assistance Policy DAP9523.7, Public Assistance Funding for Public Housing Facilities, dated August 13, 2009. This fact sheet describes public housing facilities that are eligible for Public Assistance funding.
- Standard Operating Procedures 9570.1, Program Management and Grant Closeout

- o FEMA issued this new SOP to outline the roles and responsibilities, objectives, requirements, and performance measures associated with the Program Management and Grant Closeout phase of the Public Assistance process.
- Standard Operating Procedures 9570.8, Cost Estimating Format (CEF) for Large Projects
- o This SOP provides an overview of the CEF for large projects and guidance on how to use the CEF tool.
- Public Assistance Applicant Handbook
- o Explains how applicants can apply for and receive Public Assistance.
- Public Assistance Brochure
- o Provides an overview of the Public Assistance Program.

The following policy is out for public comment:

- Recovery Policy 9580.201, Debris Contracting Guidance

In addition, as part of the comprehensive review of all its policies, PA will rescind ten policies, incorporate five policies into regulations, convert four policies into SOP's, and convert one policy into a Fact Sheet.

2) The Post Katrina Emergency Management Reform Act authorized the Rental Repair Pilot Program, which allowed FEMA to refurbish privately-owned multi-family rental units for disaster survivors. As you noted in your testimony, the program was successfully utilized in Iowa after the 2008 floods and in Galveston after Hurricane Ike, as a cost-effective alternative to trailers.

- Would you recommend that the rental repair pilot program be made permanent, and if so, are there any changes that Congress should consider?

Response: FEMA completed a review of the Rental Repair Pilot Program and submitted the official report to Congress in May 2009. The report includes an assessment of the effectiveness of the Rental Repair Pilot Program, including benefits and cost savings, and findings and conclusions. It also analyzes some issues FEMA faced in implementing the statutory authority, including limits on extent of improvements, operating costs, access to other sources of funding, and the period of assistance. A copy of the report to Congress can be found at: http://www.fema.gov/media/advisories/081709_congressionalreport.shtml

3) FEMA and HUD have previously concluded temporary, disaster-specific agreements to provide vouchers for intermediate-term housing needs after Katrina and Ike (through the Disaster Housing Assistance Program (DHAP)). These programs allowed FEMA to avoid long-term sheltering operations and facilitated the type of role for HUD envisioned by the National Disaster Housing Strategy.

- Do you believe that HUD and FEMA should develop a *standing* Interagency Agreement, similar to the one that exists between FEMA and HHS for disaster case management, in order to develop a program that would ensure federal preparedness and capacity for large-scale housing missions after a catastrophic event?

Response: FEMA and HUD are currently collaborating in the development of a standing Interagency Agreement. This Agreement will clearly define the roles, program, authorities, and responsibilities of each agency. An Interagency Agreement was implemented on two previous occasions, DHAP Katrina/Rita (2007) and DHAP Ike (2008). After Hurricanes Katrina/Rita and Ike, DHAP was instrumental in relocating and providing transitional housing assistance for disaster survivors.

4) I understand that the Stafford Act requires that entities adhere to governmental fund accounting standards. Several hospitals in areas devastated by Katrina in my state are "service district hospitals" and were eligible to receive the Special Community Disaster Loans (CDL) authorized by the Community Disaster Loan Act of 2005. It is my understanding that FEMA is reviewing capital funds and balanced budget requirements as they consider loan forgiveness options for these entities in relation their CDLs. However, neither of these accounting standards are applicable to hospitals.

- Can you explain how FEMA will work with hospitals to ensure that appropriate accounting standards are applied to them?

Response: FEMA realizes that hospitals are governed by different accounting standards than local governments. Whereas FEMA applies Governmental Accounting Standards Board (GASB) pronouncements to governmental entities, hospital accounting is governed by the Financial Accounting Standards Board (FASB).

FEMA understands the different accounting treatment required for hospitals and utilizes the FASB requirements in determining the operating deficit or surplus, with adjustments to revenues and expenditures in accordance with the regulations.

In making the calculation of the operating deficit or surplus, the first step in determining eligibility for cancellation, the financial statements are reviewed.

As for the review of capital funding, most hospitals operate with a single "fund" and for purposes of the SCDL cancellation review FEMA treats the hospital financial statements as if it were a business enterprise. In business accounting capital expenditures (fixed assets) are capitalized and depreciated over their useful life. For purposes of the calculation of the operating deficit, the depreciation expense (which represents the allocation of capital over its useful life) is deducted from both the revenues and expenses in the financial statement because the regulations state that the SCDL cannot be used for capital outlay.

Similarly, debt service payments are removed from the expenses because SCDL cannot be used to pay for debt. In addition, for purposes of determining the net operating deficit, it is assumed that some portion of the revenues generated by the hospital service fees are dedicated to pay for debt service, and so revenues are reduced by the amount of debt service payments. Therefore, when calculating the net operating deficit or surplus, both debt service payments and depreciation expense (representing capital expenditures) are removed to determine net operating revenues and net operating expenses.

5) After Hurricane Katrina, FEMA sponsored a website, DHRonline.com, that provided information about housing available to people displaced by the storm. According to Congressional testimony from James Perry, Director of the Greater New Orleans Fair Housing Action Center, DHRonline.com was one of several websites that listed discriminatory ads based on race, color, religion, national origin, and other prohibited bases.

- What actions have you taken to make sure something like this doesn't happen again?

Response: In June 2006, FEMA worked with the Center for Disaster Risk Policy at Florida State University, developers of DHRonline.org, to comply with the Fair Housing Act. For example, any postings indicating a preference based on race, color, religion, sex handicap, familial status or national origin were removed. Further, content filters were installed to alert DHRonline.org regarding potentially discriminatory postings. Moreover, FEMA has developed and implemented its own rental resource online database. The online database is accessible via FEMA's homepage or by calling and speaking with the FEMA Disaster Assistance helpline. Resources listed in the database are entered by FEMA staff only. FEMA identifies rental resources from public sources (e.g. newspaper's classified ads) and validates the information and if it appears not to comply with Fair housing laws and regulations, the resource is not entered. Furthermore, if a complaint is received the listing is removed from public view. The listing is then evaluated to determine if it violates fair housing laws. If it is determined that the listing violates fair housing laws, the listing is removed permanently.

6) In 2006, FEMA contracted for 54 of the 98 units in the Homestead Mobile Home Village in Gulfport, MS, for use by people displaced by Hurricane Katrina. An African-American family living in one of those units complained to FEMA about racial discrimination by the manager of the mobile home park. FEMA staff neither took a complaint nor conducted an investigation into this case. However, HUD did investigate the case and in 2009 found that Homestead Mobile Home Village had engaged in discriminatory actions based on race. Now, the U.S. Justice Department has taken on the case.

- Was FEMA aware of HUD's findings in this case?
- Did FEMA take any action against Homestead Mobile Home Village based on the HUD finding?
- What steps have you taken to make sure that proper procedures will be followed in such cases in the future?

Response: FEMA would like to correct an error in statement underlying the questions posed to FEMA. Specifically, the statement "FEMA staff neither took a complaint nor conducted an investigation into the case" is not entirely correct. FEMA received and accepted a complaint of discrimination against Homestead from one individual applicant.

The Office of Equal Rights was contacted by one individual applicant who was a resident of Homestead Mobile Home Village in November 2006, and who alleged mistreatment from the Homestead landlord. The Office of Equal Rights acknowledged receipt of those allegations and assigned an Equal Rights staffer to conduct a preliminary inquiry into those allegations. After the preliminary inquiry was conducted by this office, a dismissal response was sent to the individual

based on our findings of compliance by the FEMA Mobile Home Operations Program and the FEMA Individual /Household Assistance Program.

The Office of Equal Rights made inquiries into the allegations of unfair treatment by conducting interviews with the individual applicant and the landlord, with the result being issues raised from both parties. The issue then became ensuring that alternate housing was available to the applicant.

Upon the applicant's request, the Mobile Home Operations Program provided the applicant with several options of relocation, which were accepted. Both rental assistance and relocation grants were provided through the Individual/Household Assistance Program. Records indicate multiple housing assignments between October 2005 and March 2009. The Applicant submitted each relocation request. In one circumstance the Applicant moved in on March 8, 2008 and requested relocation by May 2008.

There are no Agency records in either the Title VI Program (Civil Rights), or Individual/Housing Assistance Program that shows contact between FEMA and other residents from Homestead Mobile Park alleging ongoing discrimination by the park owners/managers.

With respect to the HUD investigation, FEMA's Office of Equal Rights was not aware of the 2009 discrimination investigation being conducted by HUD against Homestead Mobile Home or the findings of the investigation.

The Office of Equal Rights has an established method of conducting preliminary inquiries to determine if a full investigation is warranted and whether resolution of the problem can be achieved. When appropriate, full investigations are conducted. Complaints outside of FEMA jurisdiction are referred to the appropriate Federal agency. Additional attention is being placed on jurisdiction during the inquiry to determine if a complaint should be referred.

Questions for the Record from the Honorable Senator Mary Landrieu to
Mr. Matt Jadacki, Deputy Inspector General for Emergency Management Oversight

Stafford Act Reform: Sharper Tools for a Smarter Recovery

May 12, 2010

Question: Hurricanes Katrina and Rita destroyed entire school systems in places like Orleans, St. Bernard, and Cameron Parish. I secured legislation in 2007 and 2008 that authorized global settlements for the reconstruction of schools and other buildings like police stations, fire stations, and criminal justice facilities. The December 2009 OIG report references the prospect of FEMA entering into more of these types of lump sum negotiated settlements.

- **In your opinion, has the lump sum payment method been a beneficial tool for applicants working through the recovery process?**
- **Would you recommend that FEMA implement this type of settlement process for future catastrophic events?**

Response: FEMA is currently using lump sum payments to fund some reconstruction of facilities damaged by hurricanes Katrina and Rita. As we pointed out in our report, there are pros and cons to this approach.

Under the lump sum approach we outlined, payments would be based on estimates developed by FEMA, with input from the grantee and subgrantee. Final estimates would be binding and not subject to change for any reason.

The pros associated with this approach include:

- (a) If time limits were imposed and lump sum decisions were made quickly, the subgrantee's cash flow would significantly improve early in the recovery process, resulting in reduced project delays;
- (b) Administrative effort at all government levels would be reduced, resulting in significant time and money savings for all; and
- (c) FEMA would likely realize a savings in administrative or management fees paid to the grantee and subgrantee since the administrative burden would be reduced.

The cons associated with this approach include:

- (a) FEMA's estimates for the negotiated settlements would likely differ from actual costs, which would result in a shortfall or windfall for the subgrantee, and there would be no recourse for the subgrantee or FEMA; and
- (b) Subgrantees might not complete some of the disaster projects, instead using the funding for other purposes.

We anticipate conducting audits on some Public Assistance (PA) projects funded through lump sum payments and will be in a better position to make recommendations in this area once they are complete.

Question: I secured an amendment in the American Recovery and Reinvestment Act that required a third-party arbitration system for Public Assistance (PA) projects from Katrina and Rita worth over \$500,000. In your December 2009 report, mentioned the prospect of FEMA developing an agency-wide mediation or arbitration process.

- **Has the Inspector General's Office monitored the procedures and rulings of the current arbitration panel, and what do you see as its benefits and disadvantages?**

Response: During our assessment, upon which my testimony was based, we determined that there were sometimes significant delays in FEMA's appeals process. Some subgrantees expressed dissatisfaction with the appeals process and suggested creating an appeals mediation board or ombudsman's office to resolve issues that have reached an impasse.

It is important to note that in the case of the Gulf Coast hurricanes, independent arbitration only became necessary after FEMA and subgrantees failed to come to agreement on work eligibility. Since project worksheets had not been finalized and funding obligated, there was no opportunity for subgrantees to file an appeal since no appealable administrative action had been taken by FEMA.

If timeframes were established and adhered to for grantees and subgrantees to submit additional information when requested by FEMA, and for FEMA to make appeal determinations, arbitration may not be necessary. However, when extended delays occur, an independent arbitration panel would put scope of work and funding issues to rest and recovery work could then proceed.

We are continuing to monitor the arbitration process required by the American Recovery and Reinvestment Act of 2009. Because the process is still underway, we are not in a position to comment on its benefits and disadvantages at this time.

Question: Your report suggests that the cap on small projects be increased from its current level of approximately \$60,000. Small projects receive advance funding and are subject to streamlined application procedures. You also suggested that FEMA issue regulations to provide grants on the basis of estimates for large projects, instead of reimbursing applicants after they have finished rebuilding.

- **Can you elaborate on these recommendations and the importance of advance funding within the Public Assistance program?**

Response: The PA program differentiates between small and large projects based on project costs. For FY 2009, the large project threshold was \$64,200. Projects that fall below this threshold are classified as small. Funding for these projects is generally final, and is available upon approval of the original estimate. For large projects, the current process provides for final grant settlements on a project-by-project (or Project Worksheet, PW) reimbursement basis after the work is completed.

One of the challenges that many subgrantees face after a disaster is maintaining an adequate cash flow to complete recovery projects. In the report upon which my testimony was based, we outlined several alternatives that could streamline the PA process. One of the alternatives we presented was to increase the large project threshold, which would result in a significant increase in the number of PWs classified as small projects. This would allow subgrantees to obtain funding for more of their projects earlier in the recovery process.

As in the response to question 1 above, there are pros and cons to this alternative.

The pros include:

- (a) Administrative efforts and costs for all parties would be reduced based on the streamlined process for small projects; and
- (b) Subgrantees' cash flow would improve because they would not need to incur costs prior to receiving payment, unlike for projects classified as large.

The cons include:

- (a) Under the small project criteria, subgrantees retain the total amount of excess funding for all combined small projects, whereas excess large project funding must be returned to the federal government.

Question: In the OIG report you highlighted several issues regarding the FEMA workforce. I understand that it is not uncommon for FEMA officials to be transferred to different sites before recovery is complete, nor is it uncommon for there to be high turnover among reservists and contractors. The report also expresses concerns about the lack of clarity that exists when FEMA officials working in the field do not have the authority to put decisions in writing.

- **What new training requirements, workforce restructuring, decision making authority, or transition procedures should FEMA consider to address these problems?**

Response: FEMA's staffing model uses many intermittent employees and contractors to work in communities recovering from disasters. While goals such as reducing costs and using local hires are laudable, the approach does have weaknesses. Primary among those weaknesses are: continual disaster personnel turnover, inexperience, and lack of training. These issues result in challenges for grantees and subgrantees when they face the "revolving door" of FEMA employees, inconsistent interpretation of broad policies, and a lack of familiarity with FEMA's policies and processes. Nearly all of the subgrantee officials we interviewed said that turnover of FEMA's disaster personnel creates significant problems in program management.

Further compounding these challenges, FEMA personnel do not have access to a clear and consolidated body of PA guidance that would facilitate their comprehension of the program, and the disaster workforce generally lacks sufficient experience and training. FEMA officials acknowledged to us the problematic nature of employing personnel who have little or no previous PA experience and attribute this to budgetary constraints that restrict training of intermittent employees prior to their deployment.

We have recommended that FEMA restructure its disaster workforce into sufficiently staffed regional cadres and deploy these personnel only to the geographic area in which they reside (unless nationwide deployment in response to a catastrophic disaster is necessary). FEMA should also ensure that policies and procedures for transitioning disaster personnel are in place and include requirements to (a) document all project activity; (b) convey all relevant documentation and information from predecessor to successor; and (c) review all appropriate documentation prior to visiting the subgrantee. Ensuring an overlapping transition period when predecessor and successor are on-site together will aid in a smooth transition.

FEMA should expedite the development and implementation of a standardized credentialing system to include employee qualifications, training, mentoring, and other applicable information, and the completion and dissemination of the FEMA Public Assistance Operations Manual to all disaster personnel. Establishment of a permanent, full-time cadre of professional trainers, and plans for educating FEMA disaster personnel prior to a disaster, will also help FEMA better serve the needs of grantees and subgrantees.

Stafford Act Reform: Shaper Tools for a Smarter Recovery
 May 12, 2010
 Mayor Joseph P. Riley, Jr.'s Responses to Questions for the Record
 From Senator Mary Landrieu

1. On several occasions this Committee has heard testimony about the various challenges encountered by state and local governments attempting to navigate the complex and vast array of federal programs that support disaster recovery. The DHS Inspector General has identified approximately 120 programs in this category.

- Based on your experience at the state and local level, do you believe that state and local governments could benefit from the availability of a single catalog of federal disaster programs to consult in the aftermath of a disaster?

Response: Yes. It would be very helpful to local and state governments if the federal government produced a single catalog of federal disaster programs and resources that we could consult following a disaster. Navigating the maze of federal programs is a difficult task during the best of times: immediately following a disaster when we must act on so many fronts it may be near impossible.

- Do you believe that state and local governments would benefit from the option to complete a consolidated application for federal assistance, instead of applying to multiple programs in an effort to address the same problem?

Response: Yes. Being able to file a single consolidated application for federal assistance with an interagency task force of federal recovery specialists makes great sense. They could evaluate the proposal, help to identify the resources to carry it out, and speed the overall grant process.

We would suggest further that the bureaucracy must be streamlined. Precious time is lost in delays caused by moving funds through too many bureaucratic layers. We need a more flexible system that allows federal funds to bypass state bureaucracies and move directly to the local governments working to rebuild their communities.

2. This committee has heard from several previous witnesses that the federal field offices with representatives from multiple agencies have been helpful in the initial response phase, but that once the recovery process begins they prematurely shut down operations. This closure has left many communities in tough positions as they attempt to navigate the rebuilding process and a maze of federal programs.

- Would state and local governments benefit if the federal government chose to operate joint field offices beyond the response phase and into the recovery phase after a catastrophic event?

Response: Absolutely. The rebuilding phase is vital to a community's ability to recover from a disaster and to residents' ability to get their lives and their homes

back to normal. It makes no sense for federal field offices which represent the various agencies to close before this phase of the recovery is well underway if not completed.

3. FEMA Public Assistance is the primary funding source utilized by State and local governments and non-profit agencies to support cleanup efforts and rebuild damaged facilities.

- Would state and local governments benefit from advance funding of Public Assistance dollars, or do they have enough cash on hand to pay for the work themselves and file for reimbursement?

Response: State and local governments definitely would benefit from advance funding of Public Assistance dollars; often they do not have enough cash on hand to pay for the work themselves and file for reimbursement. The Conference of Mayors Stafford Act Reform Report specifically recommends that up front funding be provided on the basis of preliminary damage estimates, that the small projects threshold be increased, that insurance proceeds be subtracted from grants after they are received rather than before, and that increased operating costs resulting from a disaster which go beyond normal day- to-day operations be eligible for reimbursement under the Public Assistance Program for not less at least six months.

We would suggest further that the Public Assistance Pilot Program authorized by the Post Katrina Emergency Management Reform Act be reinstated. It was intended to provide timely and cost-effective temporary housing to individuals and households affected by a disaster by funding repairs to existing multi-family rental housing units, and in the two instances in which it was used it did so in a cost-effective manner which preserved existing housing units.

4. In the aftermath of Hurricane Hugo, FEMA undertook an outreach program to the disaster survivors. It is my understanding that the process was disorganized at best, and less than effective when it came to providing case management services to those impacted by the storm. Unfortunately, Katrina/Rita survivors had similar experiences 16 years later.

- Please share with us some of the challenges faced by you and your constituents after Hurricane Hugo in trying to negotiate the federal bureaucracy.

Response: Instead of having equipment and supplies ready to come in after the winds subsided, we had to wrangle with red tape and get FEMA's approval for every step we tried to take. We had no power within 100 miles, no water, no stores open, 3400 destroyed homes, 15,000 damaged homes, 75,000 people homeless, and yet we were told that we would have to do an assessment before any assistance or relief was provided.

As a community, we prepared for the storm with the equipment and supplies that we had, doing exactly what we and everyone else should have known to do: look for residents in danger, open roads, and figure out a supply chain after the storm

left. And we took these necessary actions without knowing exactly how we were going to pay for them. Some of these costs were reimbursable, but the bureaucratic process for repayment entailed tens of thousands of pieces of paper!

Some of these challenges could be avoided if the federal government improved the process for immediate response by adopting the Community Development Block Grant model and distributed federal funds directly to municipalities in a flexible and expedited manner.

QUESTIONS SUBMITTED FOR THE RECORD BY
THE SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
AD HOC DISASTER RECOVERY SUBCOMMITTEE

NATIONAL EMERGENCY MANAGEMENT ASSOCIATION
Testimony Presented May 12, 2010

Mr. David Maxwell
President, National Emergency Management Association (NEMA)
Director, Arkansas Department of Emergency Management &
Governor's Homeland Security Advisor

Question: Based on your experience at the state and local level, do you believe that state and local governments could benefit from the availability of a single catalog of federal disaster programs to consult in the aftermath of a disaster?

Answer: Currently, there is a catalog of federal disaster programs, *The Catalog of Federal Domestic Assistance* <https://www.cfda.gov/>. Concurrently, FEMA maintains FEMA Publication 229L Disaster Assistance: A Guide to Recovery Programs. Unfortunately, not all states and local jurisdictions regularly familiarize themselves with these documents.

Should Congress instruct FEMA to move forward with a different style of catalogue, a minimum requirement of the product should be to provide a point of contact, eligibility requirements, and application information. A matrix with the state points of contacts (POCs) for each of the featured programs would also be helpful. Having the federal and state POC information will hasten the federal and state recovery managers in formulating a strategic vision for dissemination of funds and the use of these programs. Furthermore, the agencies identified in the catalogue should be tasked to have a factsheet, webinar, and power point presentation available for education before a disaster and for on-going review by states and other jurisdictions.

Beyond the option of a catalog, the larger issue remains the existence of too many disparate programs. The programs lack synchronization, there remain either gaps or overlaps in the programs and differing eligibility criteria as well as different purposes (many of which not disaster related) for which states have to creatively apply to achieve recovery objectives.

Question: Do you believe that state and local governments would benefit from the option to complete a consolidated application for federal assistance, instead of applying to multiple programs in an effort to address the same problem?

Answer: While a consolidated application for federal assistance may seem practical in theory, such an effort could prove unwieldy. The true challenge is difference agencies adding requirements which complicate the overall application process. For example, conducting assessments for programs such as the Disaster Food Stamp Program is currently quite time consuming. Therefore in coupling the program with other disaster assistance applications, the overall package could become delayed. If the application process could be designed in such a way to overcome these barriers, survivors could receive assistance more rapidly.

The overall challenge to addressing a consolidated application lies more with duplication of benefits and inconsistent application of the programs rather than legislative hurdles. Before

addressing legislative changes to the Stafford Act, the Administration should be encouraged to address the Duplication Rule where there remains a lack of agreement on where responsibility lies.

Question: Would state and local governments benefit if the federal government chose to operate joint field offices beyond the response phase and into the recovery phase after a *catastrophic* event?

Answer: Joint Field Offices (JFOs) currently do operate into the recovery phase even when events are not catastrophic and such efforts are allowed for under the National Recovery Framework (NRF). While the NRF may not specify the activities as a JFO, the functions can remain. A concern from NEMA membership remains in legislating such efforts because each situation and event vastly differs from one another. For the catastrophe of Hurricane Katrina, for example, there remain field offices with a substantial compliment of staff operating in the New Orleans area and in Mississippi. In addition, there remains a JFO open in Florida for the 2004 hurricanes. While these efforts may operate under the title of a Long-Term Recovery Office, the still perform many functions of a JFO.

Recent examples demonstrate where FEMA has accelerated the closing of a JFO, but this could be due to FEMA awaiting supplemental funding for the Disaster Relief Fund. Aside from a lack of supplemental funding, there remain examples when FEMA has closed a JFO prematurely, but the agency has since established standards referencing a percentage of work completed before closing an office. This standard is agreed upon by the states.

In the case of a catastrophic event, the need may exist to extend operations of a JFO at the discretion of the state beyond the period where the majority of the PA Project Worksheets and other individual assistance activities have been completed. During such time when the JFO has been extended, at a minimum the office should hold monthly coordination meetings HUD, FHWA, USCOE and other appropriate agencies. Per the Stafford Act, FEMA remains the responsible party for the coordination of other federal agencies and should act accordingly.

Aside from extending JFO functions, FEMA should establish public assistance closeout teams designated to work in each state. These teams would allow the state and FEMA to finalize large projects much more efficiently and in a timely manner and also process cost overruns without the cost and inefficiencies of a long-term JFO should the full functions of the office not be required.

Question: Would state and local governments benefit from advance funding of Public Assistance dollars, or do they have enough cash on hand to pay for the work themselves and file for reimbursement?

Answer: State governments would benefit from advance funding of Public Assistance dollars primarily because the recovery could begin sooner. Advance funding would reduce the need for local governments to borrow money for infrastructure restoration, the interest of which remains a non-reimbursable expense under the FEMA Public Assistance program. The challenge, however, will be to provide more expedited funding without diminishing oversight of the programs at the state level.

Advance funding would also be helpful in completing the Scopes of Work for both small and large projects, thereby enabling closeout of the project worksheets (PW) in a timelier manner. Currently, two other programs, the Immediate Needs Funding and Expedited Payments, stand available to assist the applicants with payments early in the Public Assistance process. Both payment methods, however, have restrictions in scope of eligibility and remain time-dependent.

In addition to advance funding, an approach should be developed to allow state governments to work with FEMA in establishing more realistic funding schedules. These schedules should be based upon when the funding will actually be needed and include expeditious processes where funds can be transferred at the critical times. For example, immediate funding is typically needed right after a disaster to reimburse the costs for emergency measures and debris removal performed by state and municipal employees and to meet payrolls. Funds are also required on a continuous basis to assist states and municipalities in designing and planning rebuilding projects. Conversely, the actual construction funds may not be needed until a project goes to bid. FEMA often looks at this process as "all or nothing." If the funding stream could be managed to match the requirements of the project over time all parties would benefit.

Another issue of significance with funding remains not when the funds are available, but whether applicants can rely on the same amount of funding being available from FEMA six months into a project compared to the beginning of the project. Many applicants move projects forward in good faith only to find a new project officer, or an IG auditor for example, will review the award and reduce funding for myriad reasons. This arrangement causes more confusion and dissatisfaction than the advancement of funds in the outset. A process must be established whereby more effort is expended at the beginning of the process to agree upon the scope of work and then lock funding in place so that it can only be changed if evidence of fraud or gross inaccuracy becomes evident. While such a review might appear to slow down the allocation of funding at the onset of a disaster, by eliminating the renegotiations process later in the process, recovery will be expedited administrative costs significantly reduced.

Question: What recommendations would you make to reform the Community Disaster Loan Program so that it will be able to effectively assist communities of all sizes after major disasters?

Answer: Even though the Community Disaster Loan Program (CDL) technically remains a loan program, the loans made are almost always forgiven. Under the program, communities are advanced revenue to support operating expenses and after a pre-determined time period during closeout reconciliation occurs and overages are returned to FEMA or the applicant receives additional funding. If the estimates of lost revenue prove accurate, the community should always be entitled to keep the funding they have received.

An added layer of bureaucracy complicates this program because it falls under the purview of the Credit Reform Act (CRA) as a loan, when in reality; the CDL is administered more like a grant program. Partially due to CRA, Congress continues to struggle with issues such as funding caps. The funding of operating expense shortfalls remains just as valid a disaster need as the repair of infrastructure. Funding operating expenses allows communities to continue providing services while conducting recovery operations and before tax receipts rebound. In the aftermath of non-traditional disasters, such as those which result from acts of terrorism or other events which have a disproportionate economic impact, loss of revenue could be a much more significant issue than the repair of infrastructure. The CDL program should be considered another form of public assistance and administered uniformly and in accordance with the degree of need resulting from the disaster.

Also, state and local governments should be equally eligible for any revenue replacement programs. While the impact of localized or even catastrophic disasters on state operating revenues remains less than the municipal level, a catastrophic disaster could demonstrate substantial economic challenges particularly in small and medium states. Such impacts on smaller states could show many of the same diminished services without the ability to absorb or compensate for these losses through revenue growth in other parts of the state.

In order for the CDL to be responsive to a variety of communities, a sliding scale should be used to determine the amount of the assistance. A larger municipality could certainly need more than \$5 million in a large-scale disaster and a sliding scale could address this disparity. General criteria for the scale could take into consideration a combination of factors related to the specific situation of the impacted state such as estimated recovery costs for the current disaster and estimated time for full recovery. Existing recovery costs for previous disasters and information of loss of tax and other revenues as well as the community's past performance in regaining its economic well-being could also be considered.

Conversely, loans on the top of the sliding scale could assume some of the features of the Community Disaster Loan Act of 2005 such as a more favorable interest rate, waiver of some application documents, and no cancellation provisions.

